

Exhibit 4

RECEIVED

Berlin ZBA Meeting

Date: 10/27/2020

Proposed Findings of Fact

1. The basement at 1005 Kensington Road, Berlin, CT was originally designed and constructed to be used as a second dwelling.
2. As originally built, the original concrete slab and foundation included a door opening formed through the foundation into a garage and a front door to the exterior to be used exclusively by the basement dwellers and then the doors and garage bay were actually exclusively and continuously used by the basement residents.
3. The existing basement plumbing is the original piping built into the original slab designed to serve and then actually serving the bathroom shower stall, sink, toilet and kitchen sink located in the basement dwelling, and confirmed by the Berlin Building Official.
4. The 1950's vintage cabinets were custom built by the original owner of the basement dwelling, who was a cabinet maker.
5. From November 30, 1960 until June 19, 1981, the basement was actually and continuously used as a second family dwelling by the Cyr family.
6. From November 30, 1960 to the present, the basement was actually and continuously used as a second-family dwelling.
7. The US Census Bureau in its Census 2020 recognizes the house as a two-family dwelling.

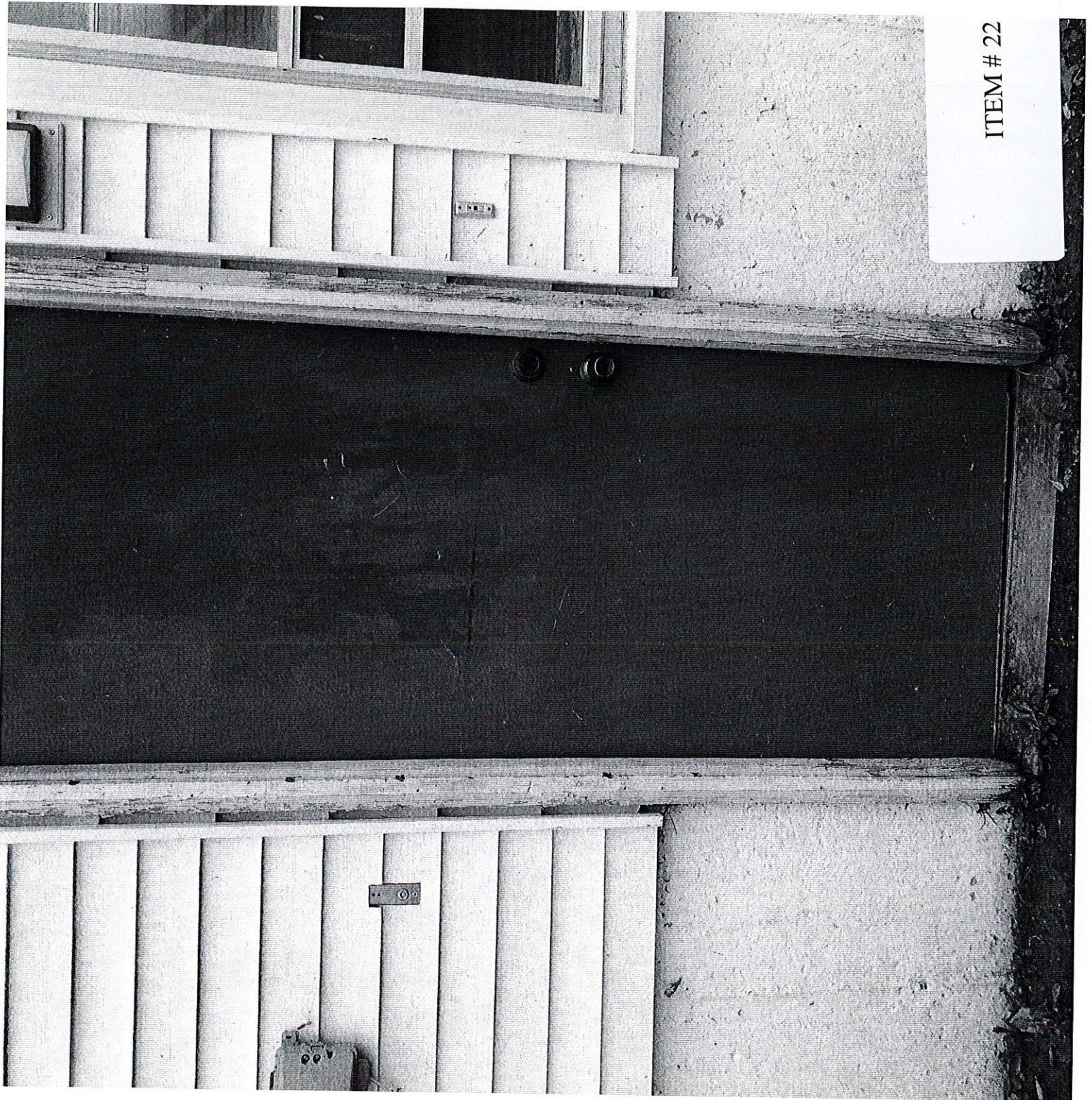
Exhibit 5

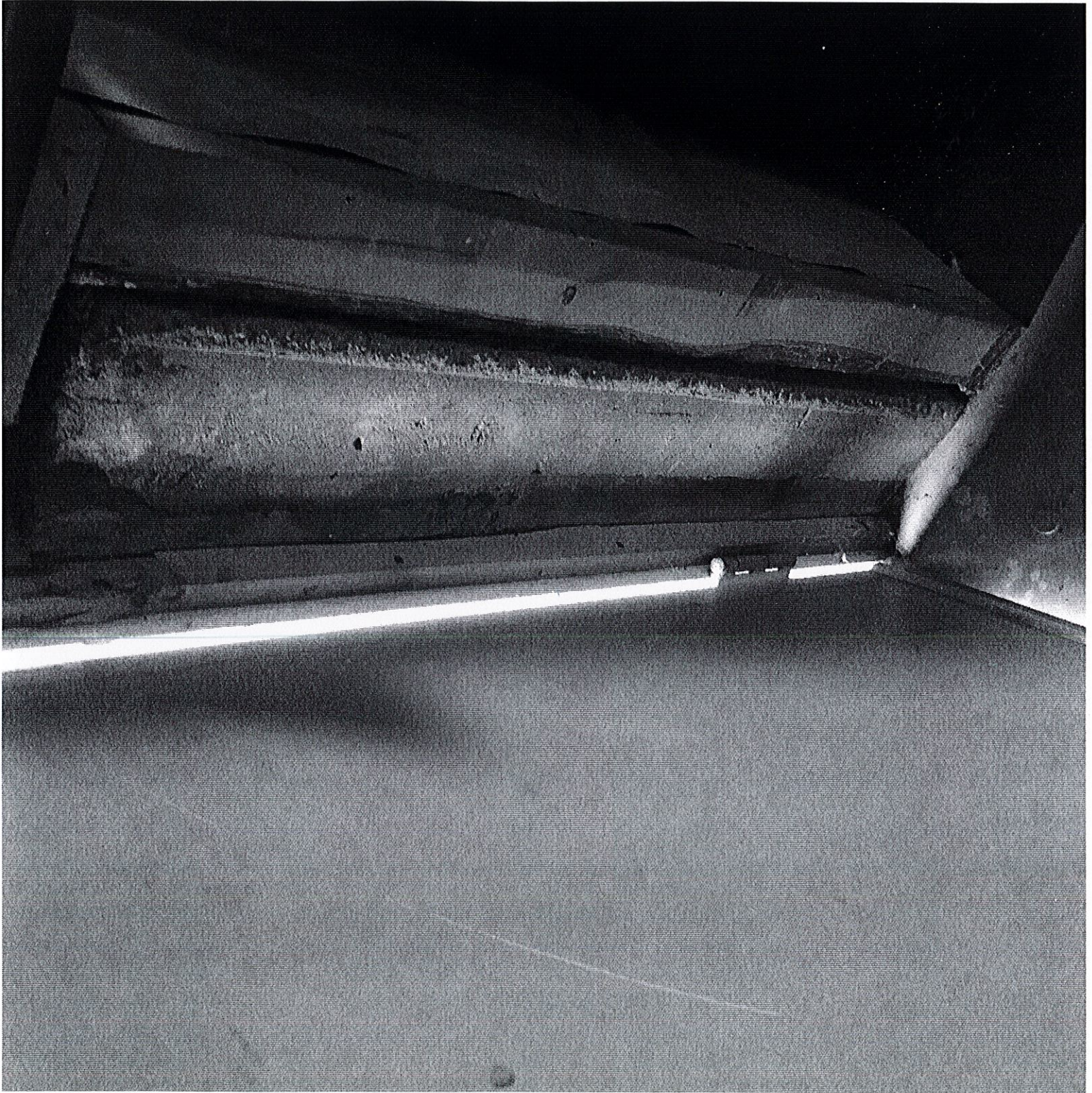
RECEIVED

Berlin ZBA Meeting

Date: 10/27/2020

ITEM # 22







From: Kim Regan <k8reg@aol.com>
Sent: Tuesday, October 27, 2020 5:13 PM
To: mgjusti
Subject: Re: 1005 Kensington Road, Berlin



Hi Maureen,
That is all correct, with the exception that we DID replace the countertop in the basement.
If you need anything else and I can help, or if I think of anything else pertaining to that property, I will send you that info for your files.
Sincerely,
Kim Regan
215 Linden St., 2nd Floor
New Britain, CT 06051
860-543-3199

-----Original Message-----

From: mgjusti <mgjusti@town.berlin.ct.us>
To: K8reg@aol.com <K8reg@aol.com>
Sent: Tue, Oct 27, 2020 4:22 pm
Subject: 1005 Kensington Road, Berlin

Kim,
As discussed on the phone, below please find the summary I have prepared based on the conversations we had regarding the circumstance and use of the property at 1005 Kensington Road while you lived there.
Please confirm that it is an accurate representation and or note any corrections.

Thank you for your time, I appreciate your responses.
Maureen

Conversation: **Maureen Giusti, AICP Acting Town Planner/ZEO with previous owner: Kim Regan 1991-2015**, by telephone, October 22, 2020

- Kim & Peter Regan owed property at 1005 Kensington Road from 1991-2015
- When they moved in the "finished basement had attributes of walk-out apartment with a galley style kitchen, full (shower) bath, dining area with fireplace and living room. The kitchen had a stovetop and wall oven." Also had a separate washer/dryer hookup.

They installed new carpeting and possibly replaced countertop.

- She used the extra (basement) oven as needed – holidays etc.
- They did not rent it out, but brother-in-law lived with them, downstairs for 8 years. He contributed to household and utilities.
- There were no separate utilities
- No separate mailbox or address.
- They never opted to hook to Town sewer.
- She also noted that there was a well on the property, but the pump was taken out prior to them living there.

Subsequent clarifications and details provided 10-27-2020:

- Noted basement was used as a family "playroom" space after brother-in-law moved out.
- Noted that the main level garage must have been added as the kitchen window looked out into the garage.

Maureen K. Giusti, AICP
Acting Town Planner / ZEO
Town of Berlin, CT

Member Information

Prefix Name: Kim E Regan
Member's Name: 06/25/1958
Date of Birth: 000070344
Member ID: 11/05/2019
Date Last Voted:
Billing Address
Street No.:
Street Name1/P O Box:
Street Name2:
City:
State:
Zip Code:
Country:

Residence Address

Address:
Unit:
City:
State:
Zip:
Status Information
Privilege Date:
Reg. Effective Date:
Current Status:
Last Active Date:
Off Reason:

Enrollment Information

Current Party: Republican
Gender: Female
Telephone: (860)-543-3199
Special Status: No
Perm Absentee Ballot:

Memo

Signature

Back

Exhibit 7
RECEIVED
Berlin ZBA Meeting
Date: 10/27/2020

Districts:

Congressional:

005

Senatorial:

006

Assembly:

024

District/Ward

State: 003

Local:

Special:

Precinct

00

Polling Place

Roosevelt Middle School

Previous Names

Date Changed

Last Name

First Name

Middle Name

Suffix

Change Date

02/01/2016

Number

1005

Street

Kensington Road

Unit

State

CT

Zip Code

06037-3542

Voter Information

Prefix Name: Peter F Regan
 Voter's Name: 10/04/1957
 Date of Birth: 000070345
 Voter ID: 11/08/2016
 Date Last Voted:
 Mailing Address
 Street No.:
 Street Name1/P O Box:
 Street Name2:
 Unit:
 Apt:
 Zip Code:
 Country:

Residence Address

Address:
 Unit:
 City:
 State:
 Zip:
 Status Information
 Privilege Date:
 Reg. Effective Date:
 Current Status :
 Last Active Date:
 Off Reason:

Enrollment Information

Current Party: Republican
 Gender: Male
 Telephone: ()--
 Special Status:
 Perm Absentee Ballot: No

Memo

10/12/2016
 10/12/2016
 Active

Back

Signature

Districts:

Congressional:

001

Senatorial:

016

Assembly:

081

District/Ward

State: 006

Local:

Special:

Polling Place

De Paolo School

Precinct

00

Previous Names

Date Changed

Last Name

First Name

Middle Name

Suffix

Change Date

10/12/2016

Number

1005

Street

Kensington Road

Unit

Berlin

State

CT

Zip Code

06037-3542

Voter Information

Suffix Name: Andrew T Regan
 Voter's Name: 08/24/1963
 Date of Birth: 000062098
 Voter ID: 11/06/2018
 Date Last Voted:
 Mailing Address
 Street No.:
 Street Name1/P O Box:
 Street Name2:
 City:
 State:
 Zip Code:
 Country:

Residence Address

Address:
 Unit:
 City:
 State:
 Zip:
 Status Information
 Privilege Date:
 Reg. Effective Date:
 Current Status :
 Last Active Date:
 Off Reason:

Enrollment Information

Current Party: Unaffiliated
 Gender: Male
 Telephone: ()--
 Special Status:
 Perm Absentee Ballot: No

Memo

Signature

Back

Districts:

Congressional:

001

Senatorial:

004

Assembly:

012

District/Ward

State: 002
 Local:
 Special: 002

Precinct

00

Polling Place

Manchester High School
 8th Utilities District (E)

Previous Names

Date Changed

Change Date

10/11/2000

Number

1005

Street

Kensington Road

Last Name

First Name

Unit

City

Berlin

State

CT

Suffix

Zip Code

06037-3542

Date Changed

10/11/2000

Party Name (From - To)

Republican - Unaffiliated

Voter Information

Suffix Name:
 Voter's Name: Patrick J Regan
 Date of Birth: 07/17/1991
 Voter ID: 004663395
 Date Last Voted: 11/06/2018
 Mailing Address
 Street No.:
 Street Name1/P O Box:
 Street Name2:
 Apt:
 Town:
 State:
 Zip Code:
 Country:

Residence Address

Address:
 Unit:
 City:
 State:
 Zip:
 Status Information
 Privilege Date:
 Reg. Effective Date:
 Current Status :
 Last Active Date:
 Off Reason:

Enrollment Information

24 Stony Brook Drive
 A5
 Glastonbury
 CT
 06033 -1659
 Current Party: Democratic
 Gender: Male
 Telephone: (860)-378-4905
 Special Status:
 Perm Absentee Ballot: No

Memo

change/olvr request received on 03/03/2020

Back

Signature

Districts:

Congressional:

001

Senatorial:

004

Assembly:

031

District/Ward

State: 007
 Local: 012
 Special:

Precinct

00
 00

Polling Place

District 7 - Academy Building
 Election Day Registration - Register And Vote

Previous Names

Date Changed

Last Name

First Name

Middle Name

Suffix

Change Date

Number

Street

Unit

State

Zip Code

24
 215
 215
 1005
 Stony Brook Drive
 Linden Street
 Linden Street
 Kensington Road

A5
 Glastonbury
 New Britain
 New Britain
 Berlin

CT
 CT
 CT
 CT
 06033-1659
 06051-2413
 06051-2413
 06037

Date Changed

Party Name (From - To)

Exhibit 8

RECEIVED

Berlin ZBA Meeting

Date: 10/27/2020

MKG Notes for ZBA meeting

Hand out GIS map of location. (current R-43 zone)

Incorporate all of previous staff comments & record as distributed
RECAP: in 2019 and again in this record.

- several layers of issues incl. Commission Whitesides points that I believe order was correctly upheld
1. 2015 property sale listing for single-family with apartment. **SEE ROR 3A-3**
 - a. Record researched & a courtesy letter sent to owner & RE agent that no CO or permits were found for it to be authorized as an apartment **ROR 3B-21**

2. Building Permit History. **SEE ROR 3A-4**
 - a. After Mitchell's purchased property Building permits were obtained and noted that they were for "Interior renovation of single-family residence." & including an electrical permit indicating the same.

Purchase due diligence would have found the zoning opinion.

My recollection was that he inquired on permits for an apartment, it was discussed that an apartment was not authorized, and permits were appropriately noted for single-family to limit any future confusion.

IT IS MY POSITION that if the Zoning Determination at that time was determined to be incorrect by the owner, the determination should have at that time been appealed.

b. Permit history is detailed in ROR 3A-3 & 3A-4 with key points:

- i. 1954 Building permit application for a 6-room house
- ii. 1954 Building Permit with data:
 1. Number of Housekeeping units: ONE
 2. CO issued 1954 (later indicated it was issued in error, no subsequent CO document found, which could lead you to believe that the error was rectified and CO found accurate after a new Building Permit was issued in 1956 as reissuance of previous permit..

ROR 3B-1 thru 3B-4

- iii. 1968-69 Permits to Demolish dwelling and permit to build a 1-story frame dwelling. NO indication that basement was habitable space.

ROR 3B-11

Related permit for installation, alteration or repair of private sewage disposal system indicates: 1- family; 7 rooms; 3 BR; 1 bath; 1 shower; 1 lavatory;

ROR 3B-14

Basement fixtures (ONLY WITH SPECIAL PERMIT) - no notation, left blank.

Related Certificate of Occupancy, Use and Compliance: Approved as a single-family dwelling 1970

ROR 3B-17

Therefore, I maintain that even given the Farm zone regulations ALLOWED a farm dwelling to be a two family, that does not preclude the need to acknowledge and get permits for the installation of amenities that would make it so. AND submitted and issued BUILDING, ZONING AND SEPTIC paperwork reflects the finished rooms on the 1st floor. 3-BR, bath, kitchen DR. and a single room basement.

common sense says ~~that~~ only basement garage may be accessed by an interior door in the bsmt.

3. Assessors Cards:

Assessor cards are a tax function. The acknowledgement that amenities were in place for a in-law, with no related permits - SHOWS WHAT WAS SEEN ON SITE BY AN ASSESSMENT OFFICIAL.

Berlin ordinance changed per Atty Griffith's testimony in 1962

SO THAT THE VALUE AND TAX COULD APPROPRAITELY REFLECT THE FINISHES ON THE PROPERTY, and not the approval of any amenities ~~if necessary~~. *or hows its used if necessary*

a. 1966 Card:

- i. OCCUPANCY: Single
- ii. Basement: 1-room; rough toilet

ROR 3C-465

b. 1976 Card:

- i. Noted as R-43 zone
- ii. Occupancy: 1-family
- iii. Notes indicate bsmt has finished rooms and kitchen

ROR 3C-869

I would note that we have a number of homes in town that have 2nd kitchens – known by several different colloquial names- (such as canning kitchen) BUT THAT DOES NOT MEAN IT IS ALLOWED AS AN APARTMENT or 2nd DWELLING UNIT!

c. 1986 Card:

- i. Dwelling Data: Number of Living units: 1(basement is not noted with finished living area, no extra units are noted. Basement Bathroom is noted

ROR 3C-12413

d. 1996 Card:

- i. Living Units- 1, Note: In-Law apartment in Walk out basement

By this time the Regan's owned the property and I would like to provide the Board with an exchange I had with Ms. Kim Regan this week.

(HANDOUT)

She indicated that they never intended to use the basement space as a rental apartment. Her brother in-law did occupy it for approximately 8 years of the 24 they owned the property, but he did not pay rent or have a separate address or utilities. He contributed to the household bills the other years it was used as a playroom space and always as extra cooking space.

Voting records which are only available back to 2000 indicate only Regan's were registered to vote for the property.

Further & THEREFORE- IF there was a claim for a separate dwelling unit prior to the Regan's owning the home – and I do not agree that there was – then

- 1. it was illegally constructed without permits or knowledge of the town after the CO and septic permit was obtained
the conversion of the original garage to living space has not associated permits;
AND*
- 2. any claim was abandoned by their not pursuing its use and Ms. Regan's indication that they did not intend for it to be rented.*

4. Address:

- a. I checked with Dave Thorn, Engineering Technician – he has been with the Town for around 30 years. He is charged with supplying OFFICIAL ADDRESSES FOR DWELLING UNITS for the Town. The property has a single address of 1005 Kensington Road. It has been my experience that when an address is requested for a unit- he checks with BOTH THE Assessor and Zoning to verify it would be a legitimate/allowed unit.

5. *OPTION TO RECTIFY IN ACCORDANCE WIT THE CURRENT ZONING REGULATIONS:*

- a. *Provision for an accessory dwelling unit in the R-43 zone. While the basement may be too large to meet the regulation's maximum Floor area, that may be able to be rectified wit ha variance or committing a portion of the space to storage for the upstairs unit.*

see notes from their testimony

Response to several items mentioned by Attorney
Griffith + Mr. Mitchell:

Basement garage door

Ms. Regan's comment that subsequent garage
was intended as extra b/c ~~the~~ kitchen window looks into it

Basement plumbing -

no challenge to permits that indicated rough plumbing
was installed - Accommodating ^{future} ~~basement~~ sinks &
or bathrooms is not unusual but doesn't mean it's ^{a 2nd} dwelling

Basement exterior access is a typical situation
found on many houses

Keys & locks - can be changed/added etc.

interior staircase

we have ^{seen situations} ~~properties~~ where dwellings may have rented rooms ~~not~~
then install locks - no permits required

Just repeating access to above grade areas of basements is not unusual or indicative of a use as a separate dwelling.

Census - IDK how census establishes apartments but I imagine it may be by request or ^{an indiv. report} but the Town. Specifically the Dept of Public Works, Engineering Division, Engineering Technician David Thorn ~~confirmed for~~ ~~that no other address is~~ assigns address numbers.

Remember the Census strives to count ALL persons & encourages honesty in order that they get accurate numbers.
From Census site - census.gov. "quote"
Why we conduct census.

Again like Assessor - purpose is not Zoning Regulation

He wanted to pull permits but was refused separate permits and modified permits for

~~Boiler wasn't used - maybe b/c it wasn't legally installed~~
Wood stove was heat - odd.

Room rental is different than an apartment
+ only if he claims he has

this Board regularly sees - as do we where
ZBA approval is not necessary find
separate garages & accesses - no indication
that that its separate apartments

My ~~order~~ - courtesy letter indicates that
apt. was found not to be
does not reflect actually use only sell
as such. Again due diligence would
have found it & it ~~would have been~~
was discussed several times w/ this owner
including when he came in for permits
& could have appealed appropriately then

Asking for a lot of inferences -
inferences as apartment between
(2) family and in-law and practical use
over time.
including multi-generational use

Comm. Mazzotta question regarding Assessor
the sq. footage ^{may} ~~is~~ not ~~be~~ part of sq. footage in
~~zone~~ ^{eg} but finishes and use are
appropriately taxed if legal
& reiterate

in-law vs apt. vs finished basement

Apartment use becomes a violation when its used &
rented separately. Today we don't allow the amenities
to be installed