

ORDINANCE NO. 2020-08

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY APPROVING A DEED OF CLARIFICATION OF RESTRICTION
FOR 37 WALL STREET, RED BANK, NJ 07701, ALSO KNOWN AS BLOCK 33, LOT 2 ON
THE TAX MAP OF THE BOROUGH OF RED BANK**

WHEREAS, the Borough of Red Bank, 90 Monmouth Street, Red Bank, New Jersey (hereinafter, the "Borough"), is a municipal corporation of the State of New Jersey; and

WHEREAS, Robert Zweben (hereinafter, the "Owner"), is the titled owner of real property located at 37 Wall Street, Red Bank, New Jersey 07701, also known as Block 33, Lot 2 on the Borough's Tax Map (hereinafter, the "Property"); and

WHEREAS, by Resolution dated July 6, 1995, the Owner obtained approval from the Borough's Zoning Board of Adjustment for a use variance to utilize the Property for the storage of antique vehicles; and

WHEREAS, as a condition of the approvals granted to the Owner for the Property by the Borough's Zoning Board of Adjustment, on October 17, 1995, the Owner executed a Deed of Restriction in favor of the Borough, memorializing certain restrictions on the use of the Property consistent with the Zoning Board of Adjustment's Resolution, dated July 6, 1995; and

WHEREAS, twenty-five years later, it has been discovered that the Deed of Restriction contains no expiration date or mechanism for termination upon the Owner's ceasing to utilize the Property for the storage of antique vehicles; and

WHEREAS, the Owner's variance will be automatically deemed void under the common law upon the Owner's abandonment of the Property's current use, but the Deed of Restriction will not be terminated by its terms; and

WHEREAS, the incongruence between the terms of the Property's use variance and Deed of Restriction will unduly cloud the Owner's title to the Property because the Deed of Restriction will continue to exist, notwithstanding the abandonment of the approved use;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey, as follows:

1. That the Governing Body does hereby approve the Deed of Clarification of Restriction, and the attachment thereto of this Resolution as Exhibit A; and
2. That the Mayor is hereby authorized to execute the Deed of Clarification of Restriction;
3. That the Owner shall be responsible for recording the Deed of Clarification of Restriction with the Monmouth County Clerk; and
4. That a certified copy of this Ordinance shall be forwarded to the Borough Administrator, Borough Planning and Zoning Department, and the Owner.

BE IT FURTHER ORDAINED that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance; and

BE IT FURTHER ORDAINED that, if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon its passage and adoption according to law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin		X			
Councilwoman Triggiano		X			
Councilman Ballard		X			
Councilman Yngstrom	Second	X			
Councilman Zipprich	Motion	X			
Councilwoman Horgan		X			

Introduction: April 22, 2020

Public Hearing/Adoption: May 13, 2020

I hereby certify the above to be a true copy.

Pamela Borghi

Pamela Borghi, Municipal Clerk

Prepared by:

Carol J. Truss, Esq.

DEED OF CLARIFICATION OF RESTRICTION

This Deed is made on _____, 2020,

BETWEEN Robert Zweben, whose address is 400 Alton Road, Unit #1403, Miami Beach, Florida 33139, referred to as the Grantor,

AND Borough of Red Bank, a municipal corporation of the State of New Jersey, whose address is 90 Monmouth Street, Red Bank, New Jersey 07701, referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of ONE DOLLAR AND NO/100---(\$1.00)---

The Grantor acknowledges receipt of this money.

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of Red Bank Borough
Block No. 33 Lot. No. 2
Account No.

Property. The property consists of the land and all the buildings and structures on the land in the Borough of Red Bank, County of Monmouth, and State of New Jersey. The legal description is:

Having a mailing address of 37 Wall Street, Red Bank, NJ 07701, and known and designated as Lot 2 in Block 33 on the Tax Map of the Borough of Red Bank.

Being the same premises conveyed to Grantor herein by deed from Summit Bank, formerly known as The Summit Trust Company, dated September 20, 1994, recorded October 3, 1994, in the Monmouth County Clerk's Office in Deed Book 5351 at page 849.

On October 17, 1995, Grantor executed a Deed of Restriction in favor of the Grantee, which was recorded on November 3, 1995, in the Monmouth County Clerk's Office in Deed Book 5456 at page 436. The Deed of Restriction imposed certain restrictions on the use of the property that are set forth therein, as required by a resolution adopted on July 6, 1995, by the Board of Adjustment of the Borough of Red Bank. Said resolution granted a use variance to use the property to store antique vehicles.

The purpose of this Deed of Clarification of Restriction is to memorialize that those certain restrictions on the use of the property as set forth in the Deed of Restriction shall be and become void and of no further force or effect at such time that the property ceases to be used for the storage of antique vehicles.

At such time that a certificate of occupancy or a certificate of approval is issued for the property to be used for any use that is unrelated to the storage of antique vehicles, the restrictions on the use of the property as set forth in the Deed of Restriction shall be void and of no further force or effect.

Attached hereto and incorporated herein as Exhibit A is a Resolution of the Borough Council of the Borough of Red Bank, authorizing the execution and recordation of this Deed of Clarification of Restriction. The Honorable Pasquale Menna, Mayor of the Borough of Red Bank, is executing this Deed to confirm the Borough's agreement to the terms hereof.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor and the Grantee sign this Deed as of the date at the top of the first page.

Witnessed by:

Robert Zweben, Grantor

Attested by:

Borough of Red Bank, Grantee

By: _____
Pasquale Menna, Mayor

STATE OF _____ :
COUNTY OF _____ :SS

I CERTIFY that on _____, 2020, Robert Zweben personally came before me and stated to my satisfaction that this person (or if more than one, each person):

(a) was the maker of the attached deed;

(b) executed this deed as his or her own act; and

(c) made this Deed for \$1.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

STATE OF NEW JERSEY:

:SS

COUNTY OF MONMOUTH:

BE IT REMEMBERED that on _____, 2020, before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared Pasquale Menna, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Mayor of Red Bank Borough, a body corporate and politic and the body corporate and politic named in the within instrument; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Red Bank Borough Council; that deponent well knows the seal of the body corporate and politic; and that the seal affixed to said instrument is the proper corporate seal and was thereto affixed and said instrument signed and delivered by Pasquale Menna, the Mayor as and for the voluntary act and deed of said body corporate and politic, in my presence, who thereupon subscribed my name thereto as attesting witness.
