

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