

**BOROUGH OF BERGENFIELD
PLANNING BOARD TELECONFERENCE
MEETING VIA ZOOM
MEETING MINUTES
JUNE 21, 2021**

Chairman Rivas called the meeting to order at 8:04 PM.

OPEN PUBLIC MEETING STATEMENT

In compliance with the Open Public Meetings Act, the notice requirements have been satisfied. Meeting dates are confirmed at the Annual Meeting. Notice of this meeting was provided to the Record, Star Ledger, and Cablevision, posted on two municipal public notice bulletin boards and posted on the borough website. Notice of this meeting via the June 11, 2021 Sunshine notice has been sent to the Record, Star Ledger, and Cablevision, posted on two municipal bulletin boards and the borough website.

PLEDGE OF ALLEGIANCE

Led by Board member Acosta:

ROLL CALL

Present: Mayor Amatorio, Mr. Byrnes Jr. (joined at 8:10pm), Mr. Rivas, Mr. Knowles, Mr. Cabrera, Mr. Acosta, Mr. Vasquez (joined at 8:09pm), and Mr. Bergman

Absent: Councilman Lodato, Mr. Abenoja, Mr. Berger, Mr. Cabrera (excused), and Councilman Rivera

Also Present: Gloria Oh, Planning Board Attorney, Carlos Fuentes, Planning Board Engineer, and Hilda Tavitian, Planning Board Clerk

APPROVE MINUTES OF PREVIOUS MEETING – April 19, 2021

Motion by: Mr. Knowles

Second by: Mr. Acosta

All ayes. None Opposed.

CORRESPONDENCE

Chairman Rivas stated a letter was received from Mr. Rosenberg regarding Congregation Ohr Ha Torah.

Mr. Rosenberg stated the letter is to alert the board that Congregation Ohr Ha Torah received final site plan approval in July 2019. The two-year vesting period has been automatically extended by the Covid Permit Extension Act. He wanted to make the board aware of the extension. Mr. Rosenberg stated that the congregation will be requesting a developer's agreement which is a condition of the approval and will also be seeking building permits shortly from the municipality.

Board attorney Oh stated she did receive correspondence from Mr. Rosenberg. It is her opinion that the resolution adopted in July 2019 was approved for preliminary and final. Ms. Oh explained under the land use law, preliminary site plan is good for three years and the final approval is good for two years. They are well within their time limit and didn't believe they needed to request an extension.

Mr. Rivas requested a date for the deadline.

Ms. Oh stated it would be five years from the date of the resolution, which was July 15, 2019. It would expire July 15, 2024.

Mr. Rosenberg stated that is fine and acceptable with the applicant.

Mr. Rivas inquired if this has to be memorialized into a new resolution. Mr. Rivas stated the letter indicates they have not been given a proper developer's agreement form.

Ms. Oh stated a new resolution is not needed.

Mayor Amatorio inquired if there is a time table the congregation will start the project.

Mr. Rosenberg stated COVID has caused a delay. It's been very difficult but they have a construction manager who is moving forward with the final plans. It will be within the next 2-3 months. The congregation is very excited to move forward with the synagogue as quickly as possible. Mr. Rosenberg stated he would like to work with Ms. Oh and the borough attorney on the developer's agreement. He will be reaching out to Ms. Oh about that immediately.

VERBAL COMMUNICATIONS

Any resident may comment or question any subject not on the agenda.

No one came forward.

Motion to Close Verbal Communications

Motion By: Mr. Knowles

Second By: Mayor Amatorio

All members present voting in favor. None opposed.

COMMITTEE REPORTS

1. Site Plan – Chairman Rivas stated there was a meeting last Monday to review an application for 230 Washington Avenue. It used to be a place that sold cars. They want to continue to doing so and make improvements to the lot. Mr. Rivas explained they want to build a building with an office. The ordinance is very clear that cars to be sold are not to be placed on any lot within the Borough of Bergenfield. It is going to the zoning board since it is a use variance.
2. Parking Legal – Mayor Amatorio stated there is a commercial parking ordinance before the Mayor and Council to approve. There was a public comment portion and it is now before the Planning Board to review before the governing body can vote on it.
3. Capital Improvements - Nothing
4. Master Plan - Nothing
5. Liaison to Board of Adjustment – Mr. Knowles stated the Board of Adjustment met. They are going to have a special meeting on 145 W. Main Street on June 29, 2021. At that meeting they are also going to vote to see if they are going to meet in-person again. He wanted to bring it up to see if the Planning Board wants to meet in-person in the future. He will not be able to cover the next regular Board of Adjustment meeting on July 12, 2021.

OLD BUSINESS

NEW BUSINESS

1. Commercial Parking Ordinance – Mayor Amatorio stated the ordinance currently does not allow any commercial vehicle to be parked in any residential area. As a result, the borough has observed there have been many violations, especially those businesses that have been operating within a residential area. Mayor Amatorio explained in order to assist and help some of the residents in not violating the ordinance, the borough relaxed the ordinance to allow certain limitations on parking a commercial vehicle. As per the ordinance, one commercial vehicle that is 8 feet high and 20 feet long (size of small pick up truck) will be allowed to park in a residential driveway. Mayor Amatorio stated backhoes and trailers will not be allowed, as it currently is not allowed, to operate and park in a residential area. It is not to make the ordinance more difficult, but to relax some of the restrictions. It would be one commercial vehicle per owner. Code enforcement will enforce the ordinance. Mayor Amatorio stated the Planning Board needs to review the ordinance because it is related to land use.

Mr. Acosta stated they should identify what a commercial vehicle is.

Mayor Amatorio stated there has been a lot of back and forth with the businesses. There were several meetings held with the borough administrator, the code enforcer, and the businesses that may be affected to identify what are the reasonable vehicles that would be acceptable to park in a residential driveway. The borough identified that some of the backyards of the residential areas keep frontloaders, backhoes, and Bobcats. The borough deemed those vehicles unfit to be kept in residential areas and would be in violation of the zoning ordinance. Mayor Amatorio stated in order to help those businesses, the council proposed to allow the small businesses to park small vans in a residential driveway. There is a lot of leniency with the ordinance. There is no perfect ordinance and if there is a need for amendments, then the council is willing to make them.

Mr. Rivas inquired if there is space in the driveway for more than one commercial vehicle can they be parked there.

Mayor Amatorio stated in one family, if one driver owns or operates one vehicle, and the father operates his own vehicle, that would be allowed. One person can not have two vehicles. There is a lot of leniency. They are trying to lessen the volume of businesses operating in residential areas.

Board engineer Fuentes stated he looked at the ordinance from two standpoints, one being the specificity of the ordinance in terms of setting a good enough template for the board to be able to enforce. Mr. Fuentes stated, in his professional opinion, it does. The ordinance is very specific as to the size of the vehicle that can be parked in a residential driveway and the number of vehicles that can be parked in a residential driveway. It is an enforceable ordinance. The size of the vehicle is similar to the dimensions of a cargo van or a passenger vehicle. The ordinance is limited to 22 ft. in length and 8 ft. 6 inches in height. The second way they looked at the ordinance was in terms of existing conflicts with ordinances currently in place. They didn't find any conflict. Mr. Fuentes stated the borough has specific parking guidance but nothing to the effect of commercial parking in residential areas.

Mr. Rivas inquired if a tour bus would be exempted from the ordinance.

Mr. Fuentes stated the bus would be in violation of the ordinance. The person with the tour bus in his/her driveway would be served a \$500 summons or \$50 per day.

Board attorney Oh stated the letter from the borough attorney dated 5/19/21 specifically asks whether this ordinance is consistent with the master plan. She believes it is.

Chairman Rivas stated the governing body has to decide on some issues the next day after the planning board meeting and the board does not have much time to look further into anything. He is relying on the experts to tell the board if anything is amiss.

Ms. Oh stated it is within the master plan of the borough. The Mayor had indicated the ordinance is not perfect and there is the ability to tweak it in the future. Ms. Oh stated she will send the borough attorney a letter on behalf of the board.

Mr. Rivas stated the board has no problems with the ordinance at this time. The commercial parking ordinance cohorts to the master plan and the board has no difficulties with it.

Board member Knowles inquired who enforces the ordinances.

Mr. Rivas stated there is an employee of the borough that goes around and inspects properties.

Mayor Amatorio stated code enforcement enforces all the ordinances. The reason why it came up was because a lot of complaints from the residents were received. He explained that code enforcement had made attempts to issue summonses to violators. It was found out there were a lot of commercial vehicles operating and commercial activities occurring in residential zones. The Mayor and council decided to help residents that were affected and to have some control of the overwhelming activities within residential areas. The ordinance limits the size of the vehicle that are being parked in the driveway. Even if it's a private vehicle, is not registered as a commercial vehicle and it exceeds the size, the ordinance prohibits it (i.e. RV vans).

Mr. Acosta inquired if they will be limiting vehicles to one per family.

Mayor Amatorio stated it is one per person that lives in a household. For instance, if a father and son own a plumbing business and live in same household, one truck that is registered to the father and the other is registered under the son, that would be allowed. It is not allowed if two vehicles are registered to the same person.

Mr. Rivas stated the borough attorney should be told the planning board doesn't have any problems with the ordinances currently constituted. The board attorney will advise the borough attorney.

2. Support of NJ Department of Environmental Protection Urban Parks Program Application

Mr. Rivas stated the board is being asked to recommend or sign the proposed letter of support. Mr. Rivas read the letter of support into the record. Mr. Rivas stated the borough is trying to get the replica of the water wheel replaced because the replacement fell apart.

Mr. Fuentes stated they reviewed the letter for any conflicts with any action the Planning Board has taken previously. There hasn't been anything proposed in that section of town and is not near any other area of development. Mr. Fuentes stated there are no issues with providing support for the application.

Mr. Vasquez asked if it will be permitted if two vehicles are assigned to one person.

Mr. Rivas stated the Mayor had said that if someone has two vehicles, only one can stay.

Mayor Amatorio stated that's what the ordinance allows.

Mr. Vasquez inquired how it would work if a person has 2 kids, each with their own vehicle.

Mayor Amatorio stated if it is a family business and a kid works for the family business, they would have to prove, by providing documents, that the son works for the business. Then they would be able to have two vehicles. The ordinance is to have some control over businesses that have dumpsters, bobcats, and backhoes and are conducting big operations in their yards.

Mr. Vazquez asked if it doesn't apply to the residents and is only for businesses.

Mayor Amatorio stated it applies to commercial businesses. He stated that if a driveway can accommodate a private vehicle and complies with the ordinance, then it would be allowed.

Ms. Oh stated she doesn't see any issues with supporting the application.

Mr. Acosta inquired if the replacement is going to be exactly the same as the one there is now.

Mayor Amatorio stated the letter of support will allow the council to seek grant funding to municipalities. The grant includes funding for historic preservation of parks and properties. He had suggested the borough apply for the grant since Coopers Pond has a lot of qualities that include green areas and historic areas. There was a discussion earlier to revive the water wheel. Mayor Amatorio stated hopefully they can get the grant. If not, then they will use outside sources to provide for the water wheel restoration. One of the requirements is to have a resolution endorsed by the Planning Board. The council is also looking for a grant to dredge the pond as it's been over 10 years since it was last done.

Ms. Oh stated the letter needs to be signed by the board chairman.

3. 2021 Housing Element and Fair Share Plan

Steve Lydon, borough planner, stated a copy of the 2021 Housing Element and Fair Share Plan was sent to the Borough of Bergenfield, Office of Planning Advocacy, and the Bergen County Planning Board on June 8, 2021. In addition, the borough had a legal notice published in the Record on June 11, 2021. Bergenfield has entered into a settlement agreement with Fair Share Housing Center. The settlement agreement establishes the outline for how Bergenfield is to meet the affordable housing obligation dated from 1986 to 2025. The settlement agreement has been approved by the borough and the superior court judge assigned to the case. Bergenfield had agreed to an earlier plan in December 2020. There is a key difference in the housing plan adopted then. The earlier one focused on the new construction obligation. Bergenfield was assigned an obligation of 227 units. Mr. Lydon stated one thing the plan wasn't focused on six months ago was the rehabilitation component, which is a key aspect of Bergenfield's plan. The borough was then assigned an obligation of 129 units. They didn't think the borough could afford to achieve those units in 6 years. The cost to rehabilitate 129 dwellings is approximately \$3,225,000. Mr. Lydon stated because Bergenfield does not have a development fee ordinance, it doesn't have the money in the affordable housing trust fund, which would have come from bonding and would have jacked up the cost of the rehabilitation program even higher. Mr. Lydon stated their office looked at Brookside Gardens, the senior housing project. Mr. Lydon stated because it was built in 1976, the borough could not capture credits for the construction of that housing. Mr. Lydon stated the court master decided to give the borough credit for the rehabilitation site at Brookside Gardens instead. Mr. Lydon stated that is what the change is in the plans. They had already presented and approved an earlier housing plan dated at the end of last year. Those plans needed to be updated to reflect a much lower rehabilitation unit number. Mr. Lydon stated in their spending plan they estimate that the borough might collect close to half million dollars between now and 2025 which can only be used for affordable housing credit. The spending plan projects about \$100,000 will be spent on affordability assistance (providing tenants with rent security money or a

couple month's rent per year). They suspect the borough will start spending money on rehabilitation. They are seeking court approval of a slightly revised plan. The court master has agreed to the changes but Mr. Lydon has not received anything in writing yet. Mr. Lydon stated he is asking the board's approval of the drafted plan and further authorization to make changes recommended by the court master. If the board doesn't feel comfortable giving him authorization, they will have to hear him again as he would need to come back with the plan at a future date. He hopes to get the board's approval tonight and send an email to the court master tomorrow.

Mr. Fuentes stated he doesn't have any questions. They reviewed the plan. It is similar to what was already approved by the board. He meant in terms of the ordinance changes that would affect land use and planning. Those have not been affected by the changes Mr. Lydon outlined tonight.

Ms. Oh stated Mr. Lydon had said the master had agreed to give Bergenfield credit for the renovations from the past. Ms. Oh asked Mr. Lydon how he was able to convince her to make a decision in favor of Bergenfield even though there isn't anything in writing yet.

Mr. Lydon stated they originally talked about all the rehabilitation Brookside Gardens has gone through. They were able to get the numbers from the housing authority. Mr. Lydon stated even though this goes back to 1976, this round only goes back to 1999. They went back and looked at the numbers to see if there was enough rehabilitation since 1999 and forward to get credit for the 129 units. Mr. Lydon stated because there was a great amount of money spent in the third round housing cycle she agreed to it. He stated there have already been two case management conferences. The judge sent a rescheduled hearing date for the Friday before Memorial Day.

Ms. Oh stated she does not have any objections. If there are any changes that have to be made would come back to the board. The downside of not giving Mr. Lydon authorization tonight is that they would have to wait another month or so. It's up to the board to give the planner authorization today to move forward and does not see any legal issues with it.

Mr. Lydon stated he would come back to the board if there were major changes. It wouldn't come back to the board if there were minor changes in the wording, that wouldn't change the meaning. He would like to have the board's authorization to make such a change. He would send it to the board the way it is now and with the way the master wants it. Mr. Lydon stated it would be some time in the future. At this point, case management would be scheduled for early July.

Mr. Rivas stated there doesn't seem to be any negative things for the board to consider in moving forward with it.

Mayor Amatorio inquired if the board authorizes the planner to negotiate or to make minor amendments and go back to the board for finality of the agreement, will the document eventually go to the council.

Mr. Lydon's response was yes. At some point, the Mayor and council will be asked to endorse the 2021 Housing Element and Fair Share Plan. The Mayor and council will have a chance to review it and hopefully endorse it.

Mayor Amatorio stated there are two layers of protection and they trust the action of the planner. In the event if there are future questions or concerns that arise, the Planning Board can review it and the council will be able to have a second look prior to endorsing it.

Accept 2021 Housing Plan & Fair Share Plan

Motion By: Mr. Knowles
Second By: Mr. Byrnes Jr.
All ayes. None opposed.

Mr. Rivas inquired if a resolution or a letter is needed for the planner.

Mr. Lydon stated the Planning Board is supposed to provide a resolution adopting the 2021 Housing Element and Fair Share Plan.

Ms. Oh stated at the last Board of Adjustment meeting they took a vote for the upcoming meeting. Certain members were still uncomfortable doing it in-person. It was left to the upcoming meeting for the members to decide. She hasn't heard of any other boroughs going back to in-person meetings as of yet. Ms. Oh stated she is sure that they will be moving towards that direction more and more.

Mr. Rivas stated he is sure the borough administrator won't be shy in telling the board and will leave it to Hilda to find out what his position is. He would like to poll the board. He doesn't want to rush people back with people not being vaccinated.

MOTION TO ADJOURN MEETING

Motion by: Mr. Knowles
Second by: Mr. Acosta
All ayes. None opposed.

Meeting adjourned at 9:11 PM.

NOTE: No applications will be heard by the Board that were not on the agenda at the time of publications release to the newspaper or applications that do not comply with Article VIII title "Hearings contained in the By-Laws of the Bergenfield Board".

Respectfully Submitted,



Hilda Tavitian
Planning Board Clerk