

**BOROUGH OF BERGENFIELD
PLANNING BOARD TELECONFERENCE
MEETING VIA ZOOM
MEETING MINUTES
AUGUST 16, 2021**

Chairman Rivas called the meeting to order at 8:00 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 August 4, 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 Vasquez.

ROLL CALL

Present: Mayor Amatorio, Mr. Byrnes Jr., Councilman Lodato, Chairman Rivas, Mr. Knowles, Mr. Abenoja, Mr. Cabrera (joined at 8:06pm), and Mr. Vasquez

Absent: Mr. Berger (excused), Mr. Acosta, Councilman Rivera, and Mr. Bergman

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

APPROVE MINUTES OF PREVIOUS MEETING – July 26, 2021

Motion by: Mr. Abenoja

Second by: Mr. Byrnes, Jr.

All ayes. None Opposed.

CORRESPONDENCE

Councilman Lodato stated the planner had circulated the redevelopment report dated July 2, 2021 to the board members.

VERBAL COMMUNICATIONS

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

Board attorney Oh stated the applicant, 111 Hallberg Ave, had emailed the board clerk stating they would like to be heard at the next regular meeting.

Chairman Rivas stated there won't be any problem with that since the applicant had requested that. They just expect the exchange of letters between the board engineer and Mr. Sinisi's expert get to the board members at least one week before the next scheduled meeting on September 27, 2021.

Motion to Close Verbal Communications

Motion By: Mr. Knowles

Second By: Councilman Lodato

All ayes. None opposed.

COMMITTEE REPORTS

1. Site Plan – Chairman Rivas stated he was not able to attend the meeting as it was in-person. Dr. Fauci was clear that vaccinated people were still getting ill. The property address was 51-59 Bedford Avenue for the construction of a multi-family residential building in a B2 prohibited use zone. The application will go before the Zoning Board.
2. Parking Legal – Nothing
3. Capital Improvements - Nothing
4. Master Plan - Nothing
5. Liaison to Board of Adjustment – Mr. Knowles stated the application for six condos that were proposed at 83 Hickory Avenue was denied. The thirteen apartments proposed at 145 West Main Street was also denied. There was an application for 40,44,46 and 48 Hickory Ave for 18 unit townhouses and 4 units of apartments. Mr. Knowles stated Chairman Stein told the attorney to go back to their applicant and review what they were doing. They were asking for too much, 70% lot coverage, 40 foot high buildings, etc. The attorney took the recommendation and they are going back to the applicant to reduce the size of the application.

OLD BUSINESS

1. Resolution – One Koufati, LLC and Fred Koufati, LLC, 363 & 369 S. Washington Avenue, Request extension

Motion By: Mr. Byrnes Jr.

Second By: Mr. Cabrera

All ayes. None opposed.

NEW BUSINESS

1. Redevelopment Report

Chairman Rivas stated they were directed to a website to get the details.

Mayor Amatorio stated the borough council endorsed the hiring of the planner, Neglia and Associates, to study areas in Bergenfield that may be designated for development or redevelopment. They identified building along Washington Avenue from the Teaneck border to the Dumont border, the area of Portland Avenue, the area of Legion Drive, Main Street, and some areas of Church Street. These areas were mentioned and is consistent with the master plan. It was recommended by the Planning Board and approved by the council. Mayor Amatorio explained most of the entire Washington Avenue can be designated as areas for redevelopment. The planner identified each and every building in the areas Mayor Amatorio mentioned. Mayor Amatorio stated it is his opinion that this is part of the original master plan approved and endorsed by the Planning Board and the council. Each building designated and explained by the planner as area for development would still be subject to either fall under this board or the borough council if there is an applicant who wants to develop/redevelop the particular property.

Chairman Rivas inquired if there is a timeline the general public can start making applications or do they have to wait for the governing body to declare this. Chairman Rivas inquired if there is a deadline for the

endorsement from the Planning Board. Chairman Rivas stated they need to schedule this with the planner as soon as possible. He doesn't want it to be on the same day the Porada application is heard.

Mayor Amatorio stated if the Planning Board agrees or makes comments based on the study by the planner and approves and endorses the designation, the borough council can go ahead with designating the areas for development. Mayor Amatorio stated there isn't a deadline. However, there are interested applicants waiting for the endorsement so they can start with the application process. There were interested applicants prior to this designation but they waited until the planner did the study.

Councilman Lodato stated once the council designates which property or all the properties they want to deem to be in need of redevelopment, then it comes back to the Planning Board for a series of hearings in which the property owner is permitted to object. A property owner can come in and say no and that his property is not obsolete, a healthy and safety hazard, not in such disrepair that it can not be rehabilitated. Councilman Lodato stated it is a long process.

Chairman Rivas stated that doesn't avert the need for the Planning Board to sit down with the planners and fully understand what they are trying to do with which buildings. Chairman Rivas read from part of the report. Mr. Rivas inquired if they should wait to have the meeting with the planner and until there is a formal application or should the board start out of the gate. Chairman Rivas stated he doesn't think this board has ever had such an activity before them. Chairman Rivas stated either Ms. Oh sits down with the board and gives a lecture or the planner sits in at a meeting.

Mayor Amatorio stated if anyone had the opportunity to look through the link, the link specifically provided each building along the mentioned areas. For instance, 96 S. Washington Ave is one of the identified areas designated for redevelopment. It's an option of the property owner whether he/she wants to redevelop that area. If he does not want to redevelop the area, no one can force him. Mayor Amatorio explained even if it is an area designated for redevelopment, it has to be by the standards set forth by the Planning Board or the borough council. Mayor Amatorio suggested the planner should be at the next meeting and educate members of the Planning Board and answer potential questions from the public since this is a major activity of the town. This kind of activity is consistent with the vision of the governing body. Mayor Amatorio stated they want these areas to be designated for redevelopment, but want to do it the right way. They really want the areas on Washington Ave and the other areas mentioned redeveloped as some of the dilapidated buildings can be redeveloped for multiple use and change the face of the Avenue. They need to do it the right way and that is why they got the opinion of the experts.

Chairman Rivas stated they can have a special meeting to accommodate that.

Board member Cabrera stated the comments made by Chairman Rivas and Mayor Amatorio make a lot of sense. There are at least 8 properties on the list. There are multiple interested applicants and they need to get in front of it.

Councilman Lodato stated the first step is with the governing body. If the governing body does not designate these areas for redevelopment, the Planning Body doesn't have anything to do. He believes it is by ordinance, not by resolution, to direct the Planning Board to conduct the appropriate hearing to make that determination. The Planning Board doing anything at this time is premature until the council acts.

Mayor Amatorio stated Councilman Lodato was referring to was not for the board to blanketly approve the area as redevelopment, but an endorsement of what the Planning Board has done to the study. Mayor Amatorio stated the reason why it is before the board is not for them to approve each and every property submitted for redevelopment but the act of the planner to conduct that study.

Chairman Rivas inquired which comes first. Councilman Lodato had stated the council has to act first.

Mr. Madaio stated usually the governing body funds the redevelopment, the area in needs study. The Planning Board doesn't have the power to tax, print money, or have a budget. The governing body has to make the allowance to ask the planner to undertake an area in needs study. The area of needs study is done by the Planning Board with the planner. The Planner Board decide the lots, what's included in the redevelopment area, and examines each property based on the criteria the planner puts before the board. The Planning Board has 100% authority to designate lots which are part of the area in need of redevelopment. Once you are done with that, it goes to the governing body to accept the area in needs study. The governing body then adopts a development plan that is effectively an ordinance. Mr. Madaio stated the Mayor is correct in that the governing body, if they choose to do so, adopts a development plan over the area designated to be in need of redevelopment. The governing body decides how much density, how much coverage, how high, what uses, etc. Mr. Madaio explained when the governing body is done with that, the redevelopment plan goes back to the Planning Board between introduction and adoption. If the governing body chooses to adopt it, it becomes like an overlay zone. There is a new zoning ordinance called redevelopment ordinance because it's over an area in need of redevelopment designated by a redevelopment study. Applicants can then make applications. If the governing body wants to include the rights of condemnation in their redevelopment plan, they can expect many years of litigation. If it's not non-condemnation, they will allow people to assemble parcels and allow people to undertake redevelopment.

Board attorney Oh stated she was reading the report prepared by the planner. In the report, it says that the area of redevelopment can be done either as condemnation development area or non-condemnation. Ms. Oh stated that would be decided by the governing body.

Mayor Amatorio stated based on this discussion, condemnation may be misconstrued. Although it's been part of the Neglia report, the combination is always part of the power of the government, the borough council has no plan to exercise such discretion at this time. Mayor Amatorio stated they are trying to provide and encourage the property owner to redevelop their property and make it easier for them to redevelop their property and for investors to offer property owners either to partner with them or buy the property. The governing body does not have any plans for taking over the Avenue and condemning it or any property.

Chairman Rivas stated he wants the Planning Board prepared and know what they have to do. He asked the board attorney to find out which comes first.

Board attorney Oh stated she will communicate with the planner and borough attorney. She will inform the board if there should be a special meeting and if the board has to wait until the governing body makes a decision.

Chairman Rivas stated he has seen some messages in the chat about people wondering what happened with the Porada application. He asked someone to tell them that it's been moved to next month. Chairman Rivas stated he saw some question having to do with the general public having a commentary at the end of this meeting. Chairman Rivas stated he doesn't know what they want to ask. The board already had Verbal Communication. If it has to do with Mr. Madaio's application, he would think not.

Mayor Amatorio stated he saw in the chat what the chairman was referring to. He stated it pertains to the Porada Development and one comment pertains to the date chosen is on a religious holiday. He stated the date chosen should be considered. Mayor Amatorio stated in this case, the applicant had requested it to be moved. Mayor Amatorio stated he believed it is the right of the applicant to have the date adjourned. Mayor Amatorio stated he would like the public to understand that this a process available to the

applicant. The only problem is that the date they are supposed to hear the applicant may not allow the potential questions or concerns to be heard since it is on a religious holiday.

Ms. Oh stated the applicant requested the application be heard at the next meeting. Ms. Oh stated that is correct.

Chairman Rivas inquired if there are any suggestions as to what date the community would like the board to meet. They would have to ask Mr. Sinisi if he was fine with meeting in October.

Councilman Lodato stated the October meeting was suggested. Councilman Lodato inquired if Mr. Sinisi specifically request the September meeting or just to adjourn the August meeting. Councilman Lodato stated the applicant is trying to avoid republishing and re-noticing. If the board feels it appropriate to extend it to the October meeting, they can do that. If it's determined tonight the October meeting would be the next meeting, there would be no requirement to re-notice. If they don't act on a date tonight, he would have to re-notice.

Mayor Amatorio stated they will be retracting the scheduled meeting in September and the resolution would be to inquire from the applicant if the October meeting is doable for them. Mayor Amatorio asked if the notice can be waived.

The board clerk, Hilda Tavitian, stated Mr. Sinisi had asked for an adjournment until the next regular meeting, which is September 27, 2021. She read the letter sent from Mr. Sinisi.

Chairman Rivas stated the applicant is not here to speak for his position. They can't pull the rug from underneath him if he thinks he is going to be heard in September. They should not make any decision until they speak with Mr. Sinisi.

The meeting was recessed at 8:45pm. The meeting resumed at 8:50pm.

Ms. Oh called Mr. Sinisi. Ms. Oh stated Mr. Sinisi objected to being heard in October. He had stated it was too long of a time for his applicant to wait. She inquired if the next regular meeting can be held on the Tuesday after the next regular scheduled meeting or the Monday before.

Chairman Rivas stated the meeting dates are published in January and members of the board state which dates are not ok if they fall on a religious holiday. No one had mentioned any conflicting dates this year.

Ms. Oh stated it's up to the board members to decide what they want to do.

The board was polled and it was decided to have a special meeting on Thursday, September 30, 2021 to hear the application for Porada Development Group. The applicant would not need to re-notice the property owners. Mr. Sinisi was agreeable to this date.

Chairman Rivas stated the planner will discuss the redevelopment study at the regular meeting on Monday, September 27, 2021. Chairman Rivas stated a notice is required for the September 27th, 2021 meeting and a special meeting to hear the Porada Development Group application on September 30th, 2021.

2. Bais Medrash
381 & 385 S. Prospect Avenue
Alteration/Addition

Mark Madaio, 29 Legion Drive, Bergenfield, NJ, attorney for applicant, stated they have a much simpler set of circumstances than already done tonight. He is here in regards to 385 S. Prospect Avenue, Block: 300 Lot:33 in a R5 residential zone. The applicant is Bais Medrash, the synagogue currently under construction. Mr. Madaio stated they are before the board for a slightly amended site plan approval. Mr. Madaio explained since they received the original site plan approval and construction had commenced, there have been some minor changes to where the garbage container is, the way the parking lot is laid, and some other minor site plan issues. The most significant part of the amendment to the site plan is that there is an adjoining flag lot (lot 34) which was a residential lot. It is now a vacant lot that has a patio on it. The House of Worship is on lot 33 and the patio is on lot 24. They want to amend the plan to use them together as the House of Worship. Lot 33 used to have a house on it and has a patio on it now. Mr. Madaio stated the patio was used by the congregation during COVID. Mr. Madaio stated he would like the board and Ms. Oh to be aware that they are not merging the lots. They can not be merged because they have different lenders. The lots can not be merged but under the land use law, the definition of site plan includes the use of a lot or lots to create an assembly for the purposes of approval. They will be used together. It will not be the first House of Worship that has an exterior area, a garden area, an outdoor worship area. The patio would be the appropriate place for the Sukkoth tent for the fall holiday. Mr. Madaio stated he wanted to mark as evidence the original resolution approved by the board in November 2018. He also included the resolution extending the time for the construction to commence which was memorialized November 19, 2018 and the entirety of Mr. Hubschman's site plan set for the proposed House of Worship at 385 S. Prospect Avenue. Mr. Madaio stated lot 33 is where the new House of Worship is being constructed and is 99% done. Lot 34 is the adjoining residential lot which will be used in connection with the House of Worship. It will become one single site plan and one single use. The main feature is the patio that has been utilized for exterior worship during COVID. The rear buffers against the municipal park and a school. It is a 4 acre track designated as park land. They are not adjacent to another dwelling.

Mike Hubschman, licensed engineer, shared on the screen the amended site plan and the key map. Mr. Hubschman stated the existing site plan had the walk on the left side and has not changed. The parking lot changed slightly. The minor changes they are requesting are: on the right they are adding a generator that was not shown on the original plan and the sidewalk that straddled the building is being jogged around. On the left, they are adding a small, concrete pad so that any vehicles or strollers would be able to go to the parking area. Mr. Hubschman stated the curb on the left was moved to the right about 3 feet. The trash area is a new request, a 8x10 dumpster pad in the front. The trees in the rear were deleted from the original site plan. There is a large, wooded area in the rear. They are proposing additional sidewalk on lot 34 to connect with the sidewalk on lot 33.

Mr. Madaio stated lot 34 contains no buildings, contains the patio structure for outdoor worship, several park benches, buffering and grassed area. Mr. Madaio stated they are demonstrating in the application that, by adding another lot, it becomes less intense, has a lower percentage of impervious coverage, lot percentage of building area, etc. They are not giving up the prior variances because they don't know what the future will bring for the lot. Mr. Madaio explained at this point, this lot will be used in conjunction with the House of Worship but can not be merged into the House of Worship. They are not giving up the bulk variances in column 2 of the limiting schedule granted 2-3 years ago. The two lots will be used together as a House of Worship, interior and exterior space. They will not be merged into one lot.

Mr. Hubschman stated they are proposing a wall to direct the runoff. The paver patio is under construction on that lot. The lawn area in the area will be a play area. The bulk variances will be reduced. The improved coverage was 81% on lot 33. Now that they have two lots, the improved coverage is reduced to 65%. The building coverage was 43.7 and now is down to 26.7. The variance granted in 2018 is no longer required. Mr. Hubschman stated they received a waiver from the county. The flag is about 12

feet wide. They are adding a basin and two seepage pits. They are required to reduce the water runoff from the site and is much better.

Chairman Rivas inquired how many people the regular House of Worship can accommodate. Mr. Rivas inquired if the patio area can accommodate all of the congregation at the same time. Mr. Rivas inquired if the tent can be taken down after Sukkoth and if there is going to be a permanent structure there.

Mr. Madaio stated they haven't changed the amount of people in the application. Everything about the building is the same size as was approved in 2018. Mr. Madaio stated he can call one of the members of the congregation to answer that question. It was used that way during COVID and is their intention for the patio to be the location of the Sukkoth tent in September. He stated he doesn't know if it can handle everyone at the same time. Mr. Madaio stated it's expected that the tent to be taken down after Sukkoth. Mr. Madaio stated if they sought permanent structures, they would have to present them. They are not seeking any permanent structures other than the patio, benches, and the drainage pits.

Mayor Amatorio inquired if lot 33 is the new lot. Mayor Amatorio stated, based on testimony, the two lots are not going to be merged as they have different owners. Mayor Amatorio asked what is the coverage for lot 34 is alone.

Mr. Madaio stated lot 34 is the patio lot. They have the same owner, but have a different mortgage on them. They are the same owner and used together. It will never be used alone. It is not a separate free standing principal use of a patio. The entirety of the use of the two lots is a House of Worship. Mr. Madaio explained the patio is made of pavers. The patio lot was originally a house and was torn down. It's just a patio now. The House of Worship that was approved in 2018 also used to be a house years ago. Mr. Madaio stated it's part of the House of Worship property. The actual use will be a little more of a garden area, seating area, external area related to the House of Worship use. It will always be a separate lot. Every House of Worship in town either has the pastor's house or an adjoining property. It is not unusual for Houses of Worship to be made up of 2-4 different lots. At this point, once it becomes part of a House of Worship, almost anything you do on there is the House of Worship use. It is intended for quiet space and not intended for parties. Mr. Madaio stated every House of Worship in town has events and understands the concern.

Mr. Hubschman stated it's 24.3% and the permitted improved coverage is 40%. Mr. Hubschman stated with the existing driveway it is 36.5%, which is still under what is permitted.

Mayor Amatorio stated it was brought to the council's attention during public comment that this area is used as an outside seating to accommodate people gathering to comply with the CDC guidelines. There was a paver used to improve the property. He inquired if that property was originally residential and was converted to a House of Worship. Mr. Amatorio inquired if this property is an additional area for people to congregate outside the area of worship. Mayor Amatorio inquired if a tent can be put in that area and if there are any provisions the property can be used for a party or activity not part of a religious House of Worship. Mayor Amatorio stated he was thinking about what the parking situation would be if there were a party, as it's a dense residential area.

Chairman Rivas requested confirmation from Mr. Madaio that it does not or will not drive the impact. Mr. Rivas inquired if there will be no celebratory events there other than religious worship. Mr. Rivas stated they do not expect to move the patio area towards the property line because the congregation grew and a bigger patio lot is needed. Mr. Rivas requested clarification there would not be any permanent structures. Mr. Rivas inquired if the congregants will be seated during worship. Mr. Rivas inquired what was it exactly the zoning officer denied if it's been in existence all throughout COVID. Mr. Rivas suggested

when the worshipping moves to the patio, the principle use of the patio is the worship. Mr. Rivas inquired about the issues raised by the board engineer.

Mr. Madaio stated whatever the premise is, it's permitted. Any religious or quasi-religious activity which could take place inside or outside is completely permitted. The only outdoor use is passive uses, the tent during Sukkoth, and the ability to use the space until COVID ends. Mr. Madaio stated they would have to return to the board if they were to enlarge the patio. Ms. Oh can write that into the resolution. Mr. Madaio stated there won't be any permanent structures other than the 8 benches around the patio. Mr. Madaio stated people have been seated all through COVID. Mr. Madaio explained the patio was constructed without permits. They did not receive permits to lay down the pavers. It was done in haste to be able to worship outside because of the COVID. Mr. Ravenda was not wrong in anyway on the take of the matter. Mr. Ravenda was treating the patio as a principle use on the lot and it's not intended to be a principle use on that lot. The patio is only there in connection with the House of Worship. The principle use of a House of Worship is everything that a House of Worship is. The patio can be nothing other than part of the House of Worship. It is not an independent principle use. The borough attorney agreed with him. He's before the Planning Board for a site plan on a permitted use as opposed to being before the Board of Adjustment. If it's part of the House of Worship property, it is a House of Worship. The second objection was the patio can't be an independent, principle use.

Mr. Hubschman stated there are no comments on items that have to be produced. The board engineer had requested the drainage calculations which they have. They are going to get rid of the fence along the northerly line as it is in disrepair. They will address all of the comments made by Mr. Fuentes. Mr. Hubschman stated they received the soil erosion permit. They received a waiver from Bergen County already. There are no major items. Mr. Hubschman stated they had received a variance with lot width and now lot width is measured at the 25 ft. setback line. The required setback is 5 ft. and they are at 92 ft.

Chairman Rivas stated on the bottom of page 2 of the board engineer's letter, it states minimum required lot width. Mr. Rivas stated it's the review letter for the proposed paver patio. Mr. Rivas inquired about the minimum driveway distance to the property line. It is within 2 feet.

Mr. Madaio asked which lot the Chairman was referring to and if it was on the review letter for the construction of the House of Worship or the review letter for the patio lot. Mr. Madaio stated that's a flag lot and they have not changed its configuration. Mr. Madaio stated when the lot width is used in conjunction with the House of Worship, that variance no longer exists. They are conforming if compared to the requirement of a one family. If the flag lot is used in conjunction with the larger House of Worship lot, the frontage conforms. The entire flag pole of the flag lot is only 10 ft. wide. They didn't create the lot. The lot was created by a board similar to this one many years ago. The flag pole of the flag lot will almost never be used because it is a driveway to nowhere. They are going to keep it in case they need it in the future. There used to be a 3-4 bedroom house that had vehicles going up and down the flagpole. Mr. Madaio stated he would be fine if Ms. Oh wrote in her resolution that the flagpole shall not be used for parking.

Mr. Hubschman stated in the R5 zone, the lot width for one family is 50 ft. and two family is 100 ft. They have 92 ft. The driveway is not changing. It's the flag lot driveway that's existing and they are just maintaining it.

Board engineer Fuentes stated given the existing location of the driveway and the proposal to repave it, they should take care to repave the driveway in such a way to divert the runoff into the House of Worship lot instead of the neighboring lot. If it includes a 2 foot buffer variance, it is something that can easily be accommodated. Mr. Fuentes stated he is in agreement with everything that's been discussed so far. There were some variances that were granted under the original application. There were a total of five, three of

which are not being changed or modified. One variance is no longer required. The lot width is still a variance but is less of a variance. They were going from a three foot variance granted in the original application to it being 2 ½ foot variance needed now. It is a modification to the original approval that should be considered by the board. Mr. Fuentes explained in the original approval, minimum lot width of 80.56 was required and the board at that time granted a variance for a width of 80.57. Per the ordinance of the borough, the lot width is a function of the average width. With the inclusion of the new flag lot, the minimum requirement goes from 80.57 to 95.57.

Chairman Rivas stated it should be a variance then.

Mr. Madaio stated they are not giving up any of the prior variances and are not merging the two lots. They don't change and are only being used together. They are not giving up the prior variance for 81% improved lot coverage. Mr. Madaio explained they are pointing out that when the two lots are included together, it's only 65%. They are not giving up their prior variances and he doesn't see them as merging. They are being used together as a single House of Worship unit. A garden is not a principal use by its self. A patio is not a separate principle use. Mr. Madaio stated it derives its function from the original property based upon use, not merger. The variance is di minimis. If the board feels a variance is needed, because the lots are being used together, then they are asking for that variance. There are no circumstance where these lots can merge and there are no circumstances a patio can be the principle use. There is no circumstance a variance is needed as to coverage. Mr. Madaio stated if a variance is needed for frontage, he is fine with asking for that variance. Mr. Madaio stated Mr. Fuentes is correct if they were merged. Mr. Madaio stated he will amend the application to request that variance and the lot width of the House of Worship lot is now slightly altered because the averaging is somewhat changed. Mr. Madaio stated as long as he doesn't lose the prior approvals for lot coverage and building coverage.

Mayor Amatorio requested clarification about the applicant not wanting to merge the lots, yet they are trying to merge the benefits of the House of Worship. It should be treated as a garden and not as a House of Worship. The reason it becomes a House of Worship is because it derives its function from the regional property by way of merging. Mayor Amatorio stated he doesn't think the board has a problem with the statement "they are separate lots, but used as one" and whether a variance is required or not and the board is expecting to give up the original variance from previous approval. As Mr. Fuentes had stated, because of the circumstances the new lot came, it changes the use not as a House of Worship, but now Mr. Madaio is saying it is being merged and you consider the whole thing, it lessens the coverage. If it is treated separately, a variance would be required. Even if a variance is needed, Mr. Fuentes is recommending approval because it's not going to impact the whole property.

Mr. Fuentes stated his zoning analysis in his letter is based on that premise. He understands the lots will not be legally merged. In terms of zoning, they were looking at one continuous track of land. The new application represents a deduction in the lot and building coverage to what was previously granted. It's for the board to consider and make a decision to whether or not to grant. It's a betterment of what was previously proposed and approved. There are two additional variances that have not been discussed. The first one with the driveway distance to the property line has been discussed and they have come to an agreement on that one. A variance would not be required for that based on the testimony provided. Mr. Fuentes stated the other one is the maximum number of the drop curbs. If they are looking at this project as one continuous track, there are now two drop curbs along the frontage of the road. He stated he heard testimony that the driveway on lot 34 will not be used for vehicular traffic. If that's the case, then the need for the drop curb goes away also. Mr. Fuentes stated the need for the drop curbs would have to be noted in the approval conditions.

Mr. Madaio stated they want the drop curb. It will not be used for parking or to stack vehicles for parking. He can't promise there won't be a delivery that comes in that way or somebody won't use the driveway.

Mr. Madaio stated he prefers to seek a variance for those drop curbs being closer together. Mr. Madaio stated he has no objection to having signage on the buffer. Mr. Madaio stated it would be best if the engineers discussed what would be the best way to ensure if there will be no vehicular traffic, but remain usable for foot traffic.

Chairman Rivas suggested putting a gate. Mr. Rivas stated they will leave it to the engineers to work it out. Mr. Rivas stated Mr. Madaio had said he doesn't know what may happen in the future.

Board attorney Oh stated she doesn't have an issue with the application. The application seems more complicated than it should be. The applicant is proposing to use the patio not as a primary use of the House of Worship but as an accessory. As long as the applicant is using the outdoor patio for worship during COVID, and not for any other functions or events related with the House of Worship, she doesn't see any issues.

Mr. Madaio stated his client wants to use the patio just like any other House of Worship uses their exterior areas. It doesn't just mean for the actual religious service. It means people can sit on the benches and talk, the Sukkot tent can go on that surface, exterior services can take place there, a small group can take place there, etc. They do not intend to use it for parties or receptions. The synagogue would like to ensure they could conduct bar mitzvahs.

Jeffrey Schreiber, 37 Glenwood Drive North, member of the congregation, stated any House of Worship has indoor and outdoor activities in which there's prayer and lectures. Outdoor activities would be just an extension of the religious services. There are outdoor gatherings after services on a Sabbath, outdoor eating where people might mingle with the rabbi, and bar mitzvahs and bat mitzvahs planned sometimes. Mr. Schreiber stated the indoor seating capacity is going to be 400 so it would probably be the same amount more or less for the outdoor. People inside might want to migrate outside. No one can calculate the actual number of people. Sometimes the kids will play in the grass area when the adults are at services inside. Mr. Schreiber stated his impression is that there's more than 297 people who can fit inside. He stated there usually is a sign in any large indoor area that says the room is approved for an x amount of people. Mr. Schreiber stated there are people who determine that and whatever process they use to determine that number, they will abide with what number that may be.

Chairman Rivas inquired the number of people that would be sufficient for the activity at the patio. Mr. Rivas stated it wouldn't be more than 297, then. He is trying to find out the limit of the number of people that can fill up the lot.

Mr. Madaio stated the actual approved seating inside the House of Worship is 297. Mr. Madaio stated the accommodation has to be the number that was approved inside the synagogue. In 2018, the calculation was done based on 294 seats in the synagogue. He stated it's not a party reception hall, but a place for a small gathering after a religious event.

Mayor Amatorios stated the reason why Mr. Schreiber was brought to the meeting was when the bar mitzvah was brought up. Although a bar mitzvah is a religious activity, it's more of an activity like a party. During the religious activity at the synagogue, the congregation's members do not occupy the parking area because they walk to the synagogue. Mayor Amatorio stated in the case of a bar mitzvah, they will be using the surrounding area for parking. Mayor Amatorio inquired how much can it accommodate considering it is a dense, residential area and there is no parking lot in the area.

Daniel Barzideh, member of the building committee of Bais Medrash, stated the lot in total is 13,000 sq. ft. and the area of patio pavers is 3,000 sq. ft. There is no particular number anyone has thought of in terms of how many people they would have outside. Mr. Barzideh stated they don't want to say a number

and be restricted by it. They have their indoor facilities and most of the activities of the synagogue will be taking place indoors. Every now and then, on a nice day they may have services outdoors and the number of people out there would be similar to what the indoor capacity is. The indoor capacity for seating is 402 seats in the sanctuary and expects it would be something similar to that. Their membership is not anywhere near that size. The space can comfortably accommodate 400 people. Bar mitzvahs and services that take place are on the Sabbath and nobody drives to the synagogue on the Sabbath. The vast majority of their members live within a walking distance. Mr. Barzideh stated they will continue to work with the OEM director, Ryan Shell, to have an emergency evacuation plan in place and will make sure the number of people in that space would be safe. It wouldn't be overcrowded. They will not be renting out the space to anyone outside of their membership and would only be used in association with their House of Worship service events related to House of Worship.

Ms. Oh inquired about weddings.

Mr. Barzideh stated this is not intended to be a wedding hall. He doesn't envision hosting weddings on the property. If someone wanted to have a small ceremony, it's possible but is not envisioned for that use on a regular basis. Mr. Barzideh stated they have a social hall in the lower floor of their building and that's where the vast majority of what they will be doing will be held. If COVID conditions persist and they don't feel comfortable and safe inside, they might use the outdoors a little bit more. It's not the primary use for socializing. Typically, services end around 11:00am on Saturday mornings and that is when there usually is the most amount of people. Mr. Barzideh stated it would be around 12:00pm-1:00pm if something would be held outside, and when it would wrap up. The majority of the time they would use the indoor space. The outdoor space would not be used frequently and is difficult to commit to a number. They want to be able to use the space the same way as any other House of Worship might. Mr. Barzideh stated he doesn't envision to have more than 400 people occupy the space.

Board member Byrnes Jr. stated there are formulas for the fire and building code to determine the capacity of people allowed on the patio. He stated he is not sure if it will address a grassy area. He inquired if the main point of egress would be the driveway. Mr. Byrnes Jr. stated there definitely could not be parking in the driveway. He recommended making a fire lane so no one can park there and it can be enforceable by the code enforcement bureau or the police department. He stated putting a gate is not a good idea if the driveway is a point of egress out of the back.

Mr. Barzideh stated the driveway would be the main point of egress. The property also connects to the original property to 371 S. Prosect Avenue through the sideyards, which would be another means of egress.

Mr. Madaio stated they would comply with that. He stated no number they would give today would supersede the state fire code.

Comments from residents within 200 feet and beyond:

No one came forward.

Motion to Approve Amended Site Plan Application:

Motion By: Mayor Amatorio

Second By: Mr. Knowles

All ayes. None opposed.

MOTION TO ADJOURN MEETING

Motion by: Mr. Knowles

Second by: Mr. Cabrera

All ayes. None opposed.

Meeting adjourned at 10:55 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