

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TELECONFERENCE VIA WEBEX  
June 1, 2020**

Chairman Shimmy Stein called the meeting to order at 8:02 P.M.

**OPEN PUBLIC MEETING STATEMENT**

In compliances 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 published on the borough website. Notice of this meeting via the May 27, 2020 Sunshine Notice has been sent to the Record, Star Ledger, and Cablevision, posted on two municipal bulletin boards and the Borough website.

Any board member having a conflict of interest involving any matter to come before the board this evening is reminded they must recuse himself/herself from participating in any discussion on this matter.

**PLEDGE OF ALLEGIANCE**

Led by John Smith.

**ROLL CALL**

**Present:** Shimmy Stein, Sara Berger, John Smith, Charles Steinel, Amnon Wenger, and Joel Berkowitz

**Absent:** Richard Morf, Joel Nunez, and Marc Friedman

**Also Present:** Ronald Mondello, Esq., Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, and Hilda Tavitian, Board Clerk, Councilman Rafael Marte, and Michael Knowles, Planning Board Liaison

**APPROVE MINUTES OF PREVIOUS MEETING – May 4, 2020 & May 13, 2020**

**Motion By:** Charles Steinel

**Second By:** Sara Berger

**All ayes. None opposed.**

**CORRESPONDENCE**

1. Letter from Mr. Madaio regarding Congregation Beth Abraham

Board attorney Ron Mondello stated he received a letter from Mr. Madaio regarding Congregation Beth Abraham dated May 19, 2020. The last extension was granted from September 2019 to September 2020. Mr. Mondello read the letter into the record. Mr. Mondello stated he can draft a second resolution indicating the new time period will be from June 2020 to June 2021 that is up to the three members involved with the case. Mr. Smith, Mr. Steinel, and Mr. Berkowitz.

Mr. Smith inquired if the extension expires in September and if the board is permitted to give another extension for another six months or a year because of the coronavirus. He doesn't have a problem with it but thinks it is a little too early. Mr. Smith inquired if there is anything that states they can grant an extension in advance.

Mr. Steinel inquired if the beginning of construction is when permits are approved or when the shovel goes into the ground.

Mr. Mondello stated it is when the shovel goes into the ground. It can be demolition.

**Motion to Grant Extension from June 2020 to June 2021**

**Motion By:** John Smith

**Second By:** Charles Steinel

**All ayes. None opposed.**

**VERBAL COMMUNICATION**

Comments by members of audience on matters not on evening's agenda

Chairman Shimmy Stein stated he wanted to let Ms. Sullivan know, since she wasn't at the last meeting, that he had reached out to the building department and had left Mike Ravenda two voice messages about holding off receiving new applications. Mr. Stein stated he doesn't think having the meetings remotely is going change.

Mary Sullivan, resident, thanked him for checking with the building department.

**OLD BUSINESS**

**Resolutions:**

1. Zenon Kopec – 514 S. Prospect Avenue – Addition to single-family dwelling

**Motion By:** Charles Steinel

**Second By:** Amnon Wenger

**All ayes. None opposed.**

2. SkyZone – 450 S. Washington Avenue – Application for change of use

**Motion By:** John Smith

**Second By:** Amnon Wenger

**All ayes. None opposed.**

3. 104 Highgate Terrace LLC – 104 Highgate Terrace – Addition to single-family dwelling

**Motion By:** Amnon Wenger

**Second By:** Charles Steinel

**All Ayes. None opposed.**

**NEW BUSINESS**

1. Bob Lutz  
155 Sussex Road  
Convert two floors into two and ½ floors.

Mr. Mondello stated he has nothing in his file but the board clerk indicated she reviewed the file and the proper notices were in the file. They were emailed to her.

Robert Lutz, 278 Vista View Drive, Mahwah, NJ, stated he is asking for two variances. He would like to improve the home and make it better for himself and the neighborhood. Presently, the house is unsightly and run down. The proposed plan utilizes the existing home's foundation and footprint that will result in a nice looking, modest, and tasteful 2,000 sq. ft. home. Mr. Lutz stated to allow for modest size bedrooms and to give it an attractive, balanced symmetrical finish to the home, he is asking for a 2 ft. cantilever that will be approximately 11-12 ft. grade on the Briarcliff Rd side of the house. The cantilever will not interfere with any side line or in any way look intrusive. It will only enhance the utility and appearance of the house and the surrounding neighborhood. Mr. Lutz explained stated they are proposing to reduce the existing lot coverage. They will be removing a shed on the property and an area of paving stones. They will be replacing a rotting wooden deck that will remain permeable.

Mr. Stein stated it is written that improved lot coverage is 40% and 46% for maximum improved lot coverage.

Mr. Smith stated #11 in the application, Mr. Lutz had answered no, there weren't any previous appeals for the premises. Mr. Smith stated the same premise was before the zoning board recently. Also, in #13, it states there isn't a flooding problem. Mr. Smith stated there is a flooding problem in that corner. The grading the applicant wants to do is going to increase the flooding when it rains. It states construction will not start until the application is granted. Mr. Smith went there and saw there was construction started already. The survey map is dated in 2019 from the previous owner. It has the borough of Tenafly bordering your property and it's not Tenafly. Mr. Smith inquired where the current survey is. It's the premises, not the owner.

Mr. Lutz stated he had not made any previous application.

Mr. Mondello clarified that Jacob and Leron Friedman had come before the board in 2019 and the application was denied on November 4, 2019. It was memorialized January 6, 2020. Mr. Madaio was the attorney. The motion did not carry. It's a different applicant with different variances.

Mr. Stein stated there is a dumpster on the property and they took off all of the siding. The work has begun on the property.

Mr. Smith stated they put the egress window in the basement. He stated he has pictures.

Chris Blake, 24 New Bridge Rd, Bergenfield, NJ, licensed architect, stated it is a corner property in the R5 district. The property is 4,600 sq. ft. They are proposing a new second floor addition to the existing first floor, basement, garage, driveway, and sidewalks. The house was in disrepair and little modifications have been done. Mr. Blake stated they will be adding another 650 sq. ft. to the existing 557 sq. ft. to the second floor with a total of 1,207 sq. ft. on the second floor. The proposed second floor will be made up of four bedrooms and two bathrooms. The size of the bedrooms are: 10 x 10, 11 x 12, 13 x 12, and the master bedroom 11 x 15. The house in total is 2,000 sq. ft. The house is within the parameters and within the character of the neighborhood. Mr. Blake stated they are asking for a cantilever of the second floor that will decrease the front yard setback on the Briarcliff Rd side. That setback is required to be 15 ft. The original house is 11.20. They are proposing a 2 ft. overhang cantilever to make the front yard setback decrease to 9.2 feet. 15 ft. is required in the district. The other side has a larger setback of 14.8.

Mr. Stein stated the drawing shows no change in the front yard setback. There is a 2 ft. difference in what is being shown as existing and what is being asked.

Mr. Blake stated he understands and has been through this with the zoning officer. The zoning officer had explained to him the cantilever was part of the front yard setback. The rear yard is not changing. Mr. Blake stated most of the coverage is existing. They are just changing the wood deck and the paver area. The encroachment onto Briarcliff Rd is a requirement to make the second floor work.

Board engineer Frank Rotonda stated the survey is from a year ago and is not signed. The setback is measured to the overhang. However, it's still not a variance condition. There isn't many comments in his review. Mr. Rotonda stated the last time the application came before the board, the house was much larger with an issue with the driveway. They are trying to adapt to the existing condition. Mr. Rotonda stated they typically ask for a seepage pit to reduce runoff from the property. He doesn't see a seepage pit on the plan. This applicant compared to the last one is an improvement. Mr. Rotonda requested the details to any site improvements made, including storm drainage and decking, be provided to him.

Mr. Lutz stated since January there has been significant rain and he has never witnessed any of the water Mr. Rotonda is talking about. He would be agreeable to putting in a seepage pit.

Mr. Stein stated they always require seepage pits. Mr. Stein stated should the application be approved, it would be contingent upon following the board engineer's recommendation of a seepage pit.

Mr. Wenger stated he voted in favor of the previous application that came before the zoning board and the current applicant is asking even less. He is in favor of the application and is glad to see someone who is able to work within the confines before him.

Mr. Steinel inquired how far out from the building does the egress window go. Mr. Steinel stated there is a walkway coming from the house on the property, then goes out to the public right of way, and joins back up with the driveway. Mr. Steinel stated the walkway should extend back to the driveway and if you want a sidewalk, put it all the way to the corner. There's a little bit of everything that doesn't work.

Mr. Blake stated the window well would extend 3 ft. out as required by the code. It's 2-3 ft. deep.

Mr. Lutz stated there is no way to get into the home from the garage, only from the front door. It's been existing and has probably been there for years. Mr. Lutz stated he has a permit to do the demolition in the house. Mr. Lutz stated he took the chimney off.

Mr. Berkowitz stated he drove by the home and noticed they are only doing repairs. The roof is covered. He inquired if work was started without approval.

Mr. Smith stated he still did not get his answers about the survey. A current survey is required. Tenafly does not border this property. There is a lot of tarp over the house. Mr. Smith stated Mr. Rotonda had written in the background information section of his report the property location as 155 Sussex Rd block 316 lot 1 and on the second page under site location, it was written as 514 S. Prospect Ave block 308 lot 19. Mr. Smith inquired which property does all of the other comments refer to. He still has problems with the application because of the side and the lot coverage is too much.

Ms. Berger stated she does not have any problems with the application.

**Residents within 200 feet:**

Barry Doll, resident, stated he would like to hear the answer to Mr. Smith's question from the board engineer about the different locations on his report.

Mr. Rotonda stated on page 2, under paragraph 1, was an error that was carried over from a previous report where it incorrectly identifies the property. The property is 514 S. Prospect Avenue and it is properly identified on the first page based on the application and the drawings that were submitted. He apologized to the board for the error and for the confusion. The report and all of the comments are applicable to the current application. He had inadvertently left the wrong address in page 2 of the report. Mr. Rotonda stated the comment of providing a signed and sealed survey is just a matter of procedure. It is required in the state of New Jersey for the plans to be accompanied by a signed and sealed survey. Mr. Rotonda explained the requirement will be satisfied as long a signed and sealed survey is provided to the building officer.

Mr. Doll inquired if the application can be voted on today if the paperwork isn't appropriate and the board doesn't have a signed survey.

Mr. Mondello stated the answer is yes. The only defect in the survey is that they have Teaneck instead of Tenafly and it's not signed. The resolution can be denied or granted upon that condition.

Mr. Smith stated it also has the old owner's name on the survey.

Mr. Rotonda stated at the time of approval from the board, it will be a requirement to provide a survey and the board attorney will put that in the resolution.

Howard Baida, 81 Harriet Avenue, stated he has concerns with shrubbery planted on the corner of Briarcliff Ave, blocking the view of drivers and potential accidents occurring.

Mr. Stein stated that is not within the board's authority.

Mr. Lutz stated he removed the shrubs that were in the corner and has no intentions of replacing them.

Mr. Smith stated the applicant is proposing 51% improved lot coverage. It is supposed to be 40%. There are problems again within. Mr. Smith stated his questions were not answered and he disagrees with accepting the surveys.

Mr. Blake stated that is on the letter of denial by the zoning officer which are incorrect.

Mr. Mondello inquired what the definition of current survey is. The two problems with the survey are miniscual. Mr. Mondello stated the applicant has to provide a signed survey if the board is so inclined to grant it. Mr. Mondello asked Mr. Rotonda what the correct number is.

Mr. Rotonda stated the zoning officer is probably counting the floating deck. The zoning officer indicated it was 51% but the application and plans show a smaller percentage. The application shows existing lot coverage of 46.99% and proposed 46.47%. The zoning officer's letter of denial says 51%. If the board was to approve the application, it would be appropriate to approve it at the higher number to comply

with the borough's zoning officer's letter. There is conflicting information with the zoning officer telling it's 51% and the architect's plan showing 46.47%.

Mr. Blake stated the zoning officer and himself have the same square footage number. They both believe it's 51.3 sq. ft. and when it is divided by the size of the property, it's less than 50%. Mr. Blake stated he doesn't know where the zoning officer is getting 51%. Mr. Blake stated the zoning officer's calculation is not correct.

Mr. Mondello stated they will go with 46.47% and install seepage pit subject to Mr. Rotonda's recommendations.

**Approve application with variances (front yard setback 9.2 ft. and maximum improved lot coverage 46.47%) subject to seepage pit**

**Motion By:** Amnon Wenger

**Second By:** Sara Berger

**5 ayes. 1 nay.**

A five minute recess taken at 9:03pm. Meeting resumed at 9:07pm.

2. Mr. & Mrs. Sheffey  
36 Greenbriar Street  
An addition – front porch

Aaron Sheffey, applicant, 36 Greenbriar Street, stated they want to add a front porch to their house. There are in the middle of constructing a second floor. Mr. Sheffey explained they are doing the work in two phases. The first phase is the construction of the second floor extension. They were told to put in for the variance for the front porch. The denial letter states that the 25 ft. setback is not met by 4 ft. and the side yard and total side yard which requires 7.5 ft. is going to 5.41 ft. The variance for the front yard is 20.71 ft. The side of the porch is in line with the existing side of the house. It matches the current aesthetics. The porch would not extend beyond the existing front stairs. It incorporates the stairs into the existing design. It fits in with the street and conforms to the look of the block.

Mr. Stein stated he drove by the property multiple times and there are several people on the block that have the same porch. It matches up to the existing house.

Mr. Sheffey stated the existing 5 ft. is the whole length of the house.

Mr. Rotonda stated the front yard setback is being requested. It is a simple application in which they are looking for a front yard setback variance to build a front porch. Mr. Rotonda stated they would like to see roof liters for addition and to provide spot grades around the perimeter of the house. Additionally, the plans will have to be signed and sealed by an architect.

Mr. Steinel stated in the rejection letter of April 24, 2020, the zoning officer stated he needs a side yard variance also. He stated they should include side yard variance at the same time. There should be a stipulation in the resolution that the front forever remain an open front porch.

Mr. Stein stated the legend on the schedule shows the existing side yard at 2.8 ft. and 5.31 ft. It looks like a .10 increase. It needs to be included in the resolution, should the application be approved.

Mr. Berkowitz stated he drove by the house a couple of times and it does look like a nice front porch. It will improve the look of the property. The kids looked cramped sitting outside.

Ms. Berger stated she agrees that the porch enhances the property and is in favor of the application.

**Questions from residents:**

Mary Sullivan stated she heard Mr. Sheffey say his address is 332 Greenbriar and if he is living in a different house.

Mr. Stein stated Mr. Sheffey had stated his address was 36 Greenbriar Street.

**Approve Application with two variances**

**Motion By:** Amnon Wenger

**Second By:** Sara Berger

**5 ayes. 1 abstain.**

3. JAH Realty Associates  
205-207 N. Washington Avenue  
Convert first floor office space into 4 one-bedroom apartments.

Matthew Capizzi, 11 Hillside Avenue, Tenafly, NJ, stated this is an existing two story office building at 205-207 N. Washington Avenue. It has 12 existing parking spots in the rear of the property. It's one lot in on Merritt Avenue and directly across the borough hall. The first floor is approximately 2,800 sq. ft. The first floor is made up of medical offices. 1/3 of the space is not occupied. The second floor has four 1 bedroom apartments. Mr. Capizzi explained 26 parking spots are needed and there only are 12. They are proposing to change the use of the first floor from office space to four 1 bedroom apartments, with a total of 8 one bedroom apartments. They will need 14 parking stalls and they are proposing to create 1 to have 13 parking stalls. There will be some minor improvements to the style of the building, lighting, stripe lining the parking area, and dumpster enclosure. Mr. Capizzi stated they are appearing before the zoning board because apartments are not permitted in a B-1 zone, although the apartments are existing on the second floor. It's a non-conforming use of apartments. The addition of the four 1 bedrooms units on the first floor would require a D-1 use variance. The parking has a significant shortfall. A 1 bedroom usually generates one parking spot. There would be 5 parking spots available for guests. There would be ample parking on site for the residential apartments. There is also parking on Merritt Avenue. The four 1 bedrooms have been existing since the beginning of time. It can technically be a D-2 variance as an expansion of an non-conforming use. Mr. Capizzi stated they have owned the property since 1981. The apartment scenario on the second floor was in existence when they bought the property.

Mr. Hubschmann stated the four apartments have been existing for 30-40 years.

Mr. Mondello stated they will treat it as a D-1 use variance.

Chris Blake, licensed architect, stated there are 4 one bedroom apartments on the second floor. The first floor currently has several little rooms, medical office space. The proposed renovation will create 4 one bedroom apartments. Each apartment would take up one corner of the building and will have one 1 bedroom, 1 bathroom, 1 kitchen, 1 living and dining space. The space of unit #1 is 588 sq. ft., unit #2 is 714 sq. ft., unit #3 is 672 sq. ft., and unit #4 is 613 sq. ft. The façade of the building will only require

replacement of a few windows. The same staircase and lobby will be repurposed for the apartments. The mechanical units for the apartments will be in the basement.

Arthur Chagaris, general partner of the building, stated is it one car per unit and any new tenant coming in would have one car per unit.

Mr. Steinel inquired if the dumpster is private or automated barrel.

Mr. Hubschman stated the dumpster is a private carrier for commercial use. Bergenfield doesn't pick up the apartments along the commercial avenue. Mr. Hubschman stated there is one proposed handicapped spot.

Mr. Smith inquired how many handicapped spots there will be. Mr. Smith inquired if the parking can be parallel along the brook. He inquired what the requirement from the DEP is and how close to the brook can cars be parked legally. He doesn't want to see the applicant fined with the parking problems. Mr. Smith stated there is no answer from Mr. Naylis' question of parking close to the brook in the site plan review report. Mr. Smith inquired if any of the apartments are going to be part of the COAH requirement for the borough.

Mr. Mondello stated the town was in a prolonged litigation with the COAH. Mr. Mondello stated he will have to put in the resolution that it will be subject to whatever the requirements of the COAH are. Mr. Mondello stated it might have to be 20% out of the eight. The board will not be able to approve the application until there is significant guidance from the borough as to what the numbers should be. There has to be some set aside, at a minimum.

Mr. Cappizzi stated it could be written in the resolution and they would not agree to that condition. Mr. Capizzi stated he has no information what the borough agreement is with fair share and whether there is an obligation for a number of the units to be designated for affordable housing. Mr. Hubschman is a planner and can speak about the variance criteria. Mr. Capizzi stated they are not in the position to address the COAH obligation tonight.

Mr. Mondello stated it's a D-1 variance. A planner would be very familiar with what's going on in the borough and would be able to tell the board and applicant what the legal requirements are. An agreement has already been reached and an ordinance was passed. It is 15% if they are rentals and 20% for condos.

Mr. Smith inquired about the lighting in the parking lot and how close to the brook people can park.

Mr. Berkowitz inquired if there are any anticipated changes in the sewer, water and power supplies since there will be more usage.

Ms. Berger inquired about disabled access.

Mr. Blake stated they don't have to comply with today's handicap accessibility requirements because they are working with an existing building under the rehabilitation code. It doesn't require change from the street.

**Questions from residents within 200 feet and beyond:**



Kathy Sahlberg, 32 Merritt Avenue, stated she doesn't see how they will be able to get another parking spot, a dumpster, and a handicapped parking spot in the parking lot. There will be no room for parallel parking. There are only two parking spots on Merritt Avenue. Mrs. Sahlberg suggested if there could be a ramp put in for handicap accessibility. She stated she doesn't know what the law is for making all apartments handicap accessible because people need to go down four steps when they first go into the building. The lot is sometimes full. There's only two cars now because people have moved out of the apartments upstairs. There's usually four cars parked in the parking lot.

Mr. Blake stated they will comply with all of the required accessibility codes. They are not required to change the existing steps. Mr. Blake stated they will have to comply with the accessibility code for the inside of the apartments.

Mr. Capizzi stated they would have to provide 1.2 units under the 15% rental requirement set aside under COAH. Mr. Capizzi stated they would be ok with having 1 unit set aside for affordable housing.

Michael Hubschman, licensed engineer, stated the existing building is 2,800 sq. ft. The existing rear of parking area is all paved. There is an entrance/exit that is 16 ft. wide with a driveway on Merritt Ave. Hirschfield Brook is to the left that borders the property line on the east. There's a large transformer in the rear with existing refuse area. There are proposing one ADA stall that has to be 16 ft. wide. There is a 3 ft. alleyway between the two buildings that is lit. People do walk down the alleyway that is well lit. The parking lot is well lit also with some lights on building and a floodlight on Merritt Avenue. They are proposing to repave and restripe the parking lot and redo the apron on Merritt Avenue. They will replace the sidewalk with brick pavers. The site is 100% developed. One of the variances being sought is for the parking spot. There are 12 existing and they will be adding one spot. The driveway is not wide enough for parallel parking. It is well suited for the apartments in a good urban area. Mr. Hubschman stated they would be able to comply with the recommendations made by Mr. Rotonda.

Mr. Rotonda stated he had requested sight triangles be depicted at the driveway to ensure unobstructed view and the safety of pedestrians and vehicles. The handling of refuse and the lighting was already addressed. Mr. Rotonda inquired if there is any proposed signage or planting. ADA compliance will be looked at by the building inspector. The applicant would be subject to complying with construction code requirements should the applicant be approved by the board to make sure the building conforms.

Mr. Capizzi stated there is no proposed signage.

Mr. Hubschman stated there were no plantings proposed. There are no areas to provide landscaping. Mr. Hubschman stated for residential, people would have assigned spots in the parking lot. There was plenty of parking for people who went to the doctor. Borough hall is right across the street. There are no sewer or water changes proposed.

Mr. Berkowitz stated he is aware that in the past a lot of the clients of the doctor parked across the street because it was easier to park across the street rather than park in the parking lot and walk through the alleyway. Mr. Berkowitz stated he assumes that is what is going to happen in the future. There are always dozens of cars in the Staples parking lot.

Mr. Smith inquired if there will be assigned spots for the residents. People get off the bus stop in front of the property, walk in the alleyway, and pull out. Right now, with the virus, there are plenty of spots

available. But, with the four additional units coming in, those spots are going to be taken up. Mr. Smith suggested signs be put indicating "for residents only". Mr. Smith stated there are only two lights in the alleyway and it was dark. Mr. Smith inquired if the DEP requirements for the brook were looked at. The borough was already heavily fined for it. Mr. Naylis had brought up the issue at the site plan meeting. Mr. Smith suggested better stoppers be put in for safety.

Mr. Hubschman stated they will be adding additional lighting in the alleyway. Mr. Hubschman stated they can't park any closer to the brook than they are already. It's about 5 feet from the fence to the edge of the brook. Mr. Hubschman stated a guard rail would be the right thing to put in.

Mr. Mondello inquired if the applicant thought about utilizing bollards to avoid a car ending up in the brook.

Mr. Cappizzi inquired if bumper stops could be installed.

**Questions from residents within 200 feet and beyond:**

Kathy Sahlberg, 32 Merritt Avenue, stated she doesn't see where 1 parking space is going to be added and still make a space for handicapped parking when there are already 12 cars there. Mrs. Sahlberg inquired if the handicapped spot will be in front of the dumpster.

Mr. Hubschman stated it is possible. The handicapped space is at the building. The dumpster is going to remain in the corner.

Mary Sullivan, stated there should be a ramp for handicap accessibility to the building.

Mr. Stein stated because of the renovation they are doing, they are not required to do anything to the exterior of the building for ADA code, but they have to for inside of the building.

Mr. Rotonda stated if the pedestrian pathway is touched, you may be required to upgrade the pathway to the current standard even if the existing condition was constructed before the code. The determination is made by the approving authority, the construction code official. Mr. Rotonda requested the applicant comply with the requirement should it be required by construction code official.

Mr. Capizzi stated they will comply with all applicable code requirements.

Mr. Mondello stated 5 votes are required to approve a D-1 use variance.

**Approve application with recommendations made by board**

**Motion By:** John Smith

**Second By:** Amnon Wenger

**5 ayes. 1 nay.**

**MOTION TO ADJOURN MEETING**

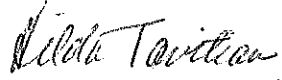
**Motion By:** Charles Steinel

**Second By:** Amnon Wenger

**All ayes. None opposed.**

Meeting was adjourned at 10:30 pm.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Hilda Tavitian".

Hilda Tavitian, Zoning Board Clerk