

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TELECONFERENCE VIA ZOOM  
September 14, 2020**

Chairman Shimmy Stein called the meeting to order at 8:00 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 September 4, 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 Shimmy Stein.

**ROLL CALL**

**Present:** Shimmy Stein, Richard Morf, Sara Berger, John Smith, Charles Steinel, Joel Nunez, Amnon Wenger, Marc Friedman, and Joel Berkowitz

**Absent:**

**Also Present:** Ronald Mondello, Esq., Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, Hilda Tavitian, Board Clerk

**APPROVE MINUTES OF PREVIOUS MEETING – August 3, 2020**

**Motion By:** John Smith

**Second By:** Amnon Wenger

**All ayes. None opposed.**

**CORRESPONDENCE**

**VERBAL COMMUNICATION**

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

Barry Doll, resident, inquired what constitutes a conflict of interest and whether it is a physical location, social contact, a relationship, club or organization. Mr. Doll stated he thinks it would be something that impairs objectivity.

Board attorney Mondello stated the courts have said there is a conflict if any board member is within 200 feet of an applicant. A statutory conflict has to do with a personal conflict, financial conflict, and economic conflict. It's a case by case basis. Mr. Mondello stated it would be a conflict if for some reason there would be some bias or impairment in objectivity.

#### **OLD BUSINESS**

1. Karen Kirschenbaum, 35 Regent Street, Request extension

Mr. Shimmy Stein recused himself and left the room.

Mr. Mondello inquired if Mr. & Mrs. Kirschenbaum had some discussions with a contractor by the name of Dell Landscaping. Mr. Mondello stated it is his understanding that Dell Landscaping has sketched or advised them about what the pool should look like. Mr. Mondello stated Dell Landscaping, Dell Pools Inc. is owned by Anthony Mondello, who is his youngest brother. Mr. Mondello stated he had spoken with his brother today to wish him a happy birthday and found out he was doing several pools in Bergenfield. Mr. Mondello stated in an overabundance of caution, he will be recusing himself from this resolution and the resolution will be pulled from the evening's agenda. Mr. Mondello asked the board to carry it to next month's agenda so he can find a replacement for himself to address the resolution and Mr. Doll's letter. Mr. Mondello stated he has already reached out to Mr. Bill Quirk who had submitted a RFQ for this position year after year. Mr. Quirk will be available for the October meeting and will solely sit in for this resolution. Mr. Mondello stated if the board insists upon continuing with this matter, he will respectfully mute himself and turn off the video. Mr. Mondello asked the board secretary to either text or call him when the board is done discussing the matter.

Mr. Kirschenbaum stated Dell Landscaping was 1 of 3 contractors they have been in discussion with. They do not have anything in writing yet from Dell Landscaping. They signed a contract for a landscaping design.

Mr. Wenger stated the draft resolution that was circulated by Mr. Mondello and there being an initial appearance of conflict was being withdrawn and a replacement attorney would be engaged for the purposes of the resolution.

Mr. Smith inquired if one of the two attorneys on the board can do the resolution.

Mr. Friedman stated he can't do it since he is no longer licensed. Mr. Friedman stated he relinquished his licenses when he retired.

Mr. Wenger stated he is a New York attorney, not in New Jersey. Mr. Wenger stated he doesn't want to advise the board.

**Motion to carry the matter to next month and a replacement attorney be brought to address the resolution.**

**Motion By:** Charles Steinel

**Second By:** Sara Berger

**All ayes. None opposed.**

2. Melissa Fried, 109 Westminster Avenue, Addition of a pool

Board engineer Rotonda stated he had discussed with the zoning officer and the design engineer. Mr. Rotonda explained the plan that was approved and memorialized should identify the number properly as 75% impervious coverage.

Mr. Mondello pointed out that it was written in the resolution, paragraph A, that the applicant had agreed to relocate the seepage pit from the rear yard to the front yard and arrange the seepage pit according to the discussions with the board engineer.

**Motion to Memorialize Resolution**

**Motion By:** Amnon Wenger

**Second By:** Charles Steinel

**All ayes. None opposed.**

3. Susan Sytner, 88 Rector Court, Add second floor addition, first floor addition, and patio to single-family resident with existing non-conforming setbacks

**Motion to Memorialize Resolution**

**Motion By:** Amnon Wenger

**Second By:** Sara Berger

**All ayes. None opposed.**

4. Gisnelly Ordonez, 21 Carnation Street, Build a new deck.

**Motion to Memorialize**

**Motion By:** John Smith

**Second By:** Amnon Wenger

**All ayes. None opposed.**

5. Janeill Iloabanafor, 311 S. Prospect Avenue, Addition/renovation at rear of two-family residence

**Motion to Memorialize**

**Motion By:** Shimmy Stein

**Second By:** Sara Berger

**All ayes. None opposed.**

**NEW BUSINESS**

1. Introductory statement for Zoning Board of Adjustment meetings

Chairman Stein stated there is some doubt in people's minds of what the purpose of the zoning board is. Mr. Friedman came up with a broad definition that explains what the function of the zoning board is. All of the attorneys feel this would be the best way to start every single zoning board meeting by reading it openly to the public. Mr. Stein stated it may eliminate some questions.

Mr. Wenger commended Mr. Friedman for drafting the statement. The public may not realize that the purpose of the zoning board of adjustment is to grant relief from the strict rules. Mr. Wenger stated members of the public have approached board members during meetings to say the applicant is not following the code.

Mr. Friedman stated he perceives there is a misunderstanding in the community as to what the zoning board of adjustment does. He drafted a statement to help those understand what the role of the zoning board of adjustment is and what its legal obligation is when a property owner has satisfied the requirements of the ordinance for a variance. Mr. Friedman suggested the statement be read by the chairman prior to the consideration of old business. The beginning is even better.

Mr. Stein stated the statement should be read right after the pledge of allegiance and before the roll call.

Board members Richard Morf, Sara Berger, and John Smith did not have any comments.

Mr. Steinel stated it is an excellent piece of work and much better than the way he used to explain it to people.

Mr. Nunez stated he likes it. He inquired if a sentence could be added that the zoning board is trying to prioritize the safety of the applicant, as well. There are some applicants where there were safety concerns.

Mr. Stein stated it makes sense but that's not our function. The fire department and the building department make sure everything is safe. Mr. Stein stated the zoning board is just there to work with the borough ordinances.

Mr. Friedman stated the safety issue is beyond what the zoning board does. The criteria is set forth in the statute as to when an applicant is entitled to variances.

Mr. Berkowitz stated this is the first time he is seeing it in writing. There is certain criteria that everyone agrees on.

**Motion to incorporate statement into the agenda after the Pledge of Allegiance**

**Motion By:** Amnon Wenger

**Second By:** Charles Steinel

**All ayes. None opposed.**

Mr. Mondello stated the Doll letter matter will be carried to the October 19<sup>th</sup> meeting. The attorney covering for him will perhaps mention or discuss it.

**MOTION TO ADJOURN MEETING**

**Motion By:** Amnon Wenger

**Second By:** John Smith

**All ayes. None opposed.**

Meeting was adjourned at 8:35 pm.

Respectfully Submitted,



Hilda Tavitian, Zoning Board Clerk