

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TELECONFERENCE VIA ZOOM  
June 7, 2021**

Vice Chairman Wenger called the meeting to order at 8:00 P.M.

**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 published on the borough website. Notice of this meeting via the May 28, 2021 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.

Members of the public calling in to the meeting who would like to ask a question or make a comment, can press \*9 to raise their hand and \*6 to unmute themselves.

**PLEDGE OF ALLEGIANCE**

Led by board member Smith.

**INTRODUCTORY STATEMENT**

**Read by Board member Friedman**

Welcome to the Zoning Board of Adjustment. Let me briefly explain what we do. We are appointed by the Bergenfield Council to decide when a property owner should get relief from the strict application of the zoning regulations that are set forth in Bergenfield and zoning ordinance. Typically, we hear two types of variances. The first is whether an applicant can vary from land use restrictions including rules on sideline distance, height, and lot coverage. That is commonly called a bulk variance. The second type of variance is a use variance, where an applicant wants to use the property for a purpose not permitted under the zoning ordinance in that zone.

In these cases, the applicant has the burden of meeting certain criteria set forth in the Municipal Land Use Law which is available online. The Borough's zoning ordinance is also available online. We carefully listen to the testimony, including objectors, and review all relevant documents. If a majority of the Board concludes that the applicant has satisfied those criteria for a bulk variance, we must grant the requested variance. Approval of a use variance requires five affirmative votes.

**ROLL CALL**

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

**Absent:** Jose Morel

**Also Present:** Gloria Oh, Zoning Board Attorney, Carlos Fuentes, Zoning Board Engineer, Councilman Marte, Council Liaison, Michael Knowles, Planning Board Liaison, and Hilda Tavitian, Zoning Board Clerk

**APPROVE MINUTES OF PREVIOUS MEETING – May 3, 2021 & May 25, 2021**

**Motion By:** John Smith

**Second By:** Sara Berger  
**All ayes. None opposed.**

## **CORRESPONDENCE**

Board attorney Oh stated she received correspondence in regards to the application originally on the agenda for today, 40 Hickory Sixboro LLC. They asked to be adjourned to the next meeting.

Chairman Stein stated he would like to see how tonight's meeting goes and how they get with the 83 Hickory Ave application before giving 40 Hickory Sixboro LLC a hearing date. They will have a hearing date by the end of tonight's meeting.

Chairman Stein stated the mask mandate has been lifted and borough hall is not requiring it. The board was polled to determine if the June 29<sup>th</sup>, 2021 special meeting would be held at borough hall.

Return to meeting in-person - 5 ayes, 3 nays

Mr. Steinel stated based on the number of people participating online regarding 145 W. Main Street, they are going to be pushing a crowd. Mr. Steinel stated just because it is politically correct to drop the mask mandates, they are still less than 50% vaccinated. He has health issues and would not be able to attend meetings at borough hall.

Mr. Stein stated they will continue the June 29, 2021 special meeting online via zoom since there are three members against meeting indoors. They will address this again on June 29<sup>th</sup> which won't affect the July meeting as there won't be enough time to give notification. If they say no now, the next possible time to meeting indoors is August. Hopefully, life by then will be a lot more normal.

Board member Wenger stated he is curious what the public thinks and if they have a desire to go back in-person or if they prefer to log in from the privacy of their home.

Mr. Stein stated there are three members of the board who are uncomfortable coming back inside and owe it to their fellow board members to give it a little more time.

Board member Smith stated he attends all the meetings, including the Mayor and council meetings. He stated when they were doing the webex meetings, there were a lot of people logging in. Once they went back to the public meetings, the number of people decreased. He doesn't think all of the people that signed in for Main Street will be at the meeting in-person. It was convenient to stay at home and they didn't have to worry about their kids.

Mr. Stein agreed with Mr. Smith in that there would be 50% of the crowd if the meetings were held in-person. He is concerned with every member's comfort level. They are all volunteers with no compensation and are serving the town. They will revisit it in June, at the end of the month.

## **OLD BUSINESS**

### **1. Resolutions:**

Fabian Bonilla, 193 Woods Ave, Add a family room, master bedroom, and bathroom

**Motion By:** John Smith  
**Second By:** Sara Berger  
**All ayes. None opposed.**

Elozor Preil, 65 Maiden Lane, Add a sunroom and deck

**Motion By:** Charles Steinel

**Second By:** John Smith

**All ayes. None opposed.**

## **NEW BUSINESS**

1. Congregation Beth Abraham  
396 New Bridge Road  
Amended site plan and extension of all prior approvals June 4, 2018 & July 6, 2020

Mr. Stein stated they had granted the applicant variances already and have come before the board with a slightly smaller application.

Board members Stein, Wenger, and Berger recused themselves from the hearing of this application.

Mark Madaio, attorney for applicant, 29 Legion Drive, Bergenfield, stated they had received approval June 2018 and obtained a one year extension in July 2020. They are entitled to another one year extension. Mr. Madaio stated his client has made some determinations as to what is realistic for them to build. They are presenting an application that makes every single zoning criteria less intense. They are making the building smaller and are before the board for an amended sit plan approval, a continuation of the D variance as to height and to continue but less the previously approved variances in 2018.

Steven Napolitano, licensed professional civil engineer, SNS, 1 Paragon Drive, Montvale, NJ, shared on the screen the "Comparison Zoning Chart/Schedule". Mr. Napolitano stated this exhibit was part of his plans, except that it's in color. The lot area and the lot width are the same now as in the previous application proposed. The improved lot coverage was approved at 76.1% in the 2018 approval and they are seeking 74.54% now. The maximum lot coverage was approved at 43.9% in 2018 and they are now seeking 42.25%. The maximum building height was approved at 48.17 feet in 2018. It is now 43.84 feet and less than what was previously approved. The minimum front yard stays as it was previously approved. The minimum side yard in 2018 was 15 feet and are still 15 feet. The minimum rear yard in 2018 was 18.5 feet and 26.3 feet is being proposed at this time. Mr. Napolitano stated there is no variance required between those two applications and it is now conforming. The parking requirements in 2018 was approved with 16 parking spaces and they are seeking 16 parking spaces now.

Mr. Madaio stated the zoning schedule shows that every zoning requirement is less or the same as 2018.

Mr. Napolitano shared on the screen the site plan. He stated to the north of the site is New Bridge Rd and to the south and east is Westminster Ave. There is an existing synagogue located on the property. He indicated on the screen a proposed building, a story addition. There is proposed parking in the front, 2 curb cuts off of New Bridge Rd, 13 parking spaces, and a refuse area.

Mr. Madaio inquired what is different on the plan than the one approved in 2018.

Mr. Napolitano stated the purple area on the site plan is what was part of the larger building. The footprint was larger. They eliminated the rear yard setback. The essential layout is the same and nothing is changing. The driveway is in the same location, the egress/ingress is same location, and the lighting plan is the same. They just are not going to build much building on the west side. They eliminated the one rear yard variance by making the building smaller. Mr. Napolitano stated the drop off on Westminster is the same. Everything is the same size, same location, and same curb radius. The white portion of the drawing

is the portion of the building that is existing now. The addition is the proposed two story building addition.

Mr. Madaio stated it is the same thing approved in 2018 and extended in 2020. Mr. Madaio stated those documents are regular business records.

Mr. Napolitano stated the topographic survey is something that is prepared for every project and the two plans they had were requests made by the county. They were originally prepared in 2018 for sidewalk and curb ramp access points. Those documents are part of the application which is part of the approval for the board as well as Bergen County Planning & Economic Development Board.

Mr. Friedman inquired if the reports are regularly relied upon a practicing civil engineer.

Mr. Napolitano stated absolutely. There isn't anything else they can do without it.

Board member Smith requested to see the zoning table. He found everything to be ok. He requested clarification for the minimum rear yard. Mr. Smith stated per zoning, it is 25 feet, existing was 32.4 feet, and 18.5 feet was approved. Mr. Smith stated they are now making it 26.3 feet and requested and explanation about that.

Mr. Napolitano showed the 26.3 on the screen. There is a 25 ft setback. The building in the purple area went closer than 26 feet into the 18.5 feet. That's why there was a variance request. Mr. Napolitano stated now that the building shrunk a bit, the closest dimension from the rear yard to the building is 26.3 feet.

Board member Steinel stated Mr. Napolitano didn't testify about drainage stormwater runoff. He inquired if the drainage calculations and drainage plan submitted in 2018 is the same or has it been modified.

Mr. Napolitano stated they are using the exact same one.

**Questions from residents within 200'**

No one came forward.

**Questions from residents beyond 200'**

No one came forward.

Board engineer Fuentes confirmed he had reviewed the plans and is in agreement with the reduction of the original application heard in 2018. The variances they are seeking are being reduced and they reviewed the stormwater management plan. It is the same as the approved in 2018. There were some minor details in the review letter that Mr. Napolitano can address.

John Lignos, licensed architect, SNS, 1 Paragon Drive, Montvale, NJ, shared on the screen the silhouette drawings of the previous application that was marked in red. Mr. Lignos stated the red silhouette goes up beyond the existing rendered elevation. It is a reduction of volume. The next drawing also shows a reduction of volume. They took away the basement of 12,000 sq. ft. and reduced the first floor by 1,000 sq. ft., reducing the overall volume. It is the same building. The previous application had an additional new sanctuary. They are expanding the existing sanctuary and are not creating the sanctuary space. Instead, it is now their social hall. Mr. Lignos stated the existing sanctuary is being expanded. It is no way near the seating that was created when they built a whole additional sanctuary. The exterior insulating material, that was in the previous scheme is in this application as well. It works well with the neighborhood.

Board member Friedman stated on page 3 in the board engineer's review letter dated June 3, 2021, there are a number of requirements the engineer wants to have satisfied with the plan and there are also three areas of questions. Mr. Friedman assumed that they will comply with the requirements the engineer set forth under his site plan comments.

Mr. Madaio stated absolutely. He stated they would expect that it would be any specific condition of the resolution and it is their intention to comply.

Mr. Friedman stated there was a proposed crosswalk connecting the northern side of New Bridge Rd to the southern side of New Bridge Rd at the intersection of Westminster. This isn't an existing crosswalk. He inquired if there is a proposed crosswalk.

Mr. Napolitano stated he looked back in the files and put in a call to Mr. Hubschman but did not hear back from him. He believes the crosswalk Mr. Friedman was referring to does not exist today and does not remember if it were to be ever proposed. It may have been from an old survey. Mr. Napolitano stated, to his knowledge, it's not existing and doesn't recall it ever being asked to be proposed.

Mr. Friedman inquired how the trash is going to be collected and disposed of. He inquired if it is going to be a private hauler.

Mr. Napolitano stated they have a dumpster and recycling area that's going to be fenced in, siting in between a little nook between the existing and the proposed building. He doesn't know the exact pick up time. He didn't know if the trash was going to be picked up by a private hauler.

Mr. Madaio stated he doesn't know. If it's common for the borough to pick up at other local houses of worship, then they would expect to be treated like any other house of worship. If not, then it be would be private trash hauling.

Mr. Friedman inquired if the lighting plan differs in material than the original lighting plan.

Mr. Lignos' response was no.

Mr. Smith stated the application was approved for the extension. The delay at the time was due to the county responding to the applicant. One of the things that went before the county was the crosswalk. Mr. Smith stated he doesn't know if the civil engineer or the architect can look at the county plans. The crosswalk was addressed in the county plans. He stated that was the holdup was and that was where a crossing guard was struck. Mr. Smith stated he sees private contractors picking up the garbage there and presumed that's still going to be the same.

Mr. Napolitano stated he will look at them first thing tomorrow morning. He had some old plans and they had shown up on all the plans.

Mr. Madaio stated if that's what's been done, then it's going to continue.

Mr. Morf wanted confirmation that the basement excavation has been eliminated.

Mr. Lignos stated that is correct. There is no longer going to be a basement to the new addition other than the foundation.

**Questions from residents within 200'**

No one came forward.

**Questions from residents beyond 200'**

No one came forward.

Mr. Madaio stated the crosswalk was moved and it is now by New Bridge Rd and Surrey Avenue. It is no longer there. They are still going to look into it.

Mr. Friedman stated he walks that intersection frequently. The crosswalk there now replaced a crosswalk that was further northeast.

Mr. Napolitano stated that was left on by an old survey. It doesn't exist and it isn't proposed. They are going to remove it from the drawing.

Mr. Madaio stated they only have Ms. Kuiken present because the board engineer requested a landscape plan. He doesn't think they did a landscape plan when it was originally approved and he doesn't think it matters much.

Mr. Fuentes stated it is part of the borough's completeness checklist. They have produced it and he did review it. There are no issues with the plan produced.

Mr. Friedman inquired if Mr. Fuentes sees a need for a live testimony now, now that it has been reviewed.

Mr. Fuentes stated no, not based on his review.

Mr. Madaio stated the height component is a five vote. He inquired how many voting members are there this evening.

Mr. Friedman stated there are five.

**Approve Application with Recommendations Made**

**Motion By:** John Smith

**Second By:** Marc Friedman

**Five ayes. None opposed.**

A nine minute recess taken at 9:16pm. The meeting resumed at 9:25pm.

**OLD BUSINESS - CONTINUED**

2. Application:

C.R. Restoration, LLC, 83 Hickory Avenue, Build six town houses (carried from 5/3/21 meeting)

Mr. Stein stated at the last meeting, there were fire concerns.

Bruce Rosenberg, stated since the May meeting, their engineer met with Former Chief Naylis to review the plan issues. They would like to present first the amended conceptual plan that was submitted with the application.

Dan LaMothe, civil engineer, shared on the screen 5/14/21 plan that was submitted showing revisions made in response to meeting with Former Chief Naylis. They shifted the building 4 feet to the east, reducing the right side yard from 17 feet to 13 feet and the left side yard was increased from 17 feet to 21 feet. Mr. LaMothe stated that allowed them to create a staging area with reinforced fire paver, 18 feet

wide along the western side of the building. This would allow the fire truck to stage in that area. Another revision made was a fire lane was created and the fire hydrant was moved to the westerly side. It would allow for better circulation to the building. It would allow a fire truck to make a K turn to turn around rather than back out. It would also allow two fire trucks to come onto the site. Mr. LaMothe stated another change made was that there will be a 16 ft mountable curb to allow the fire truck to drive up to the fire lane. They also added ADA accessible space on the east side of the building. The major change in zoning was the side yard variance of 13 ft. for the fire staging area. The fire lane is a honeycomb structure that is embedded in the lawn area that allows a truck to drive on it without its wheels sinking into the turf.

Jerry Naylis, Former Fire Chief, firefighter for 48 years and resident of 21 S. Taylor Street, stated he reviewed the revisions with Christopher and as it was stated, they like the location of the fire hydrant. It allows the fire department to bring the truck in, weigh a line in, and still have access to allow another truck to come in eastbound. They would be able to stage at least two or three pieces of apparatus there. Mr. Naylis stated by moving the building slightly to the east, they would be able to fully make a K turn to pull the apparatus straight out of the site. He inquired if the building will be 100% sprinklered.

Mr. LaMothe's response was yes.

Mr. Naylis stated for these reasons they feel that these will far outweigh any shortcomings people may perceive. They believe if there is a fire, the sprinklers will contain it. They will have more than sufficient area to operate in and be able to confine the fire to the room of origin. The fire department is satisfied that the applicant has provided sufficient safeguards so the fire department can operate sufficiently.

Board member Steinel inquired if a fully sprinklered NFPA13 system will be used.

Mr. Rosenberg's response was yes.

Board engineer Fuentes stated they reviewed the plan. The only issue is that it creates an additional variance for the side yard setback on the east side of the building. Mr. Fuentes stated the board may look favorably given the fact it is to give better access to the fire department in granting the variance. They would need to look at the additional details that weren't on the original plans.

Board member Friedman inquired if there were any other recommendations that he made to the applicant with regards to fire protection for the premises that were rejected or not being followed.

Mr. Naylis' response was no.

Board member Smith inquired how the snow will be removed from the new fire lane that is grass.

Mr. Naylis stated the pavers are designed to be able to be plowed. They can support a weight of over 75,000 pounds which is why a fire truck would still be able to drive over them. As long as the snow is plowed, they would be able to access it even if there is a heavy snowfall.

#### **Questions from residents within 200'**

No one came forward.

#### **Questions from residents beyond 200'**

Joan Maddocks, resident of Kuggas Place, stated her family has been involved with the fire department for decades. She inquired if there are fire walls between each unit.

Mr. Rosenberg stated Mr. Solomon, at the first meeting, had testified about that. It will be fully compliant and up to code. There won't be any span.

Michael D. Kauker, licensed professional land use planner, 356 Franklin Avenue, Wyckoff, NJ, shared the tax map on the screen. It shows the subject property and the surrounding area. Mr. Kauker stated the applicant is proposing to construct a six unit town home development. The town home development is not a permitted use in the underlying R5 district. The applicant would require a D-1 use variance. In addition, there are a number of bulk variances required. Mr. Kauker stated one additional variance would be the side yard setback variance. They were retained to evaluate the application from a planning and zoning standpoint. Mr. Kauker explained in preparation for his testimony, he had the opportunity to review the master plan, zoning ordinance of Bergenfield, go out and visit the subject property, the surrounding area, and review the architectural and engineering plans submitted to the board. The property has a lot area of 21, 986 sq. ft. It is one of the largest properties in the surrounding areas, which differentiates it and makes it unique as it relates to the surrounding area. The property is currently improved with a two story dwelling which is for residential use. Mr. Kauker stated the property is a flag lot, narrower in the front portion of the lot and larger in the rear portion of the property. The principal uses of the R5 district are one family and two family homes. One family homes are permitted on 5,000 sq. ft. lots and two family homes are permitted on 10,000 sq. ft. lots. The subject property is located along Hickory Avenue. There are homes to the north, east, and the west. There is a church that is located across Hickory Avenue and a deli and catering facility located on the corner of Hickory Ave and N. First Street. Mr. Kauker stated the block is unique in that there are three layers of development. There are homes located along Hickory Avenue, homes located along Central Ave, and homes carved out in between the block on Kuggas Place. The proposed property is similar to the area along Kuggas Place. The depth of the block can accommodate the proposed town home development of the property. Mr. Kauker shared on the screen the ¼ mile radius map. He stated the property is within walking distance of N. Washington Ave. There are other multi-family homes located along Hickory Ave. There are apartments located closer to Washington Avenue. They meet the numerical height but not the number of stories.

Mr. Kauker stated he had an opportunity to review the master plan. The last reexamination report was adopted July 24, 2017. His review of the document found that it does not conflict with any of the goals itself and does further the following objectives. His review indicated that there was a strong preference for trying to accommodate a wide variety of housing types within Bergenfield. Goal number one of the plan was to preserve existing residential neighborhoods and offer a variety of housing types. A town home style development is a unique development. They are still single family developments but are just attached. It does provide another housing type. Mr. Kauker stated what they are proposing does diversify the housing stock. Mr. Kauker stated even though they are proposing a town home style development, it is still consistent within the area. Mr. Kauker stated what they are proposing provides a unique type of housing that can be adequately accommodated on the property and is consistent with the land use pattern in the surrounding neighborhood. Multi-family homes are not a permitted use in the R5 district and a D-1 use variance would be required for this application. The positive criteria states a variance may only be granted in particular cases and for special uses. The second part is that the applicant must make a showing of the negative criteria. The negative criteria consists of two parts. The applicant must show that there will not be a substantial detriment to the public and there won't be a detriment to the intent and purpose of the zoned plan or the zone ordinance. Special reasons are taken from the purposes of zoning contained in the municipal land use law. The most often sited purpose is purpose A which deals with promotion and general welfare. The board can grant a use variance if the applicant shows that the property is suited for the proposed use or that it is inherently beneficial. This use is not one that is inherently beneficial. It's one that the site can accommodate and is particularly suited for the subject property. Mr. Kauker stated it is his opinion that the positive criteria has been met. The shape and size gives it a unique character of the site. It is the largest, underutilized lot in the neighborhood. It fits within the developed nature of the existing neighborhood. The block has three layers of development. It would be more efficient and more



productive use of land and promotes smart growth principles, such as creating a range of housing choices, promoting cluster developments, and promoting walkable neighborhoods. Mr. Kauker stated the size of the property justifies the D1 variance.

Mr. Rosenberg inquired if the existing structure is on Hickory Avenue and the 6 single family homes are going to be set all the way in the back.

Mr. Kauker's response was yes and stated what Mr. Rosenberg had stated was correct. In addition to purpose A, Mr. Kauker stated the proposed development would allow for the construction of new town house development. The units will be built in accordance with modern day building standards. It will be fully fire suppressed. The applicant had made changes to the plan to create better circulation onsite in order to accommodate comments from the fire department. Mr. Kauker stated the proposed development will allow for the appropriate development of the property in a manner that's consistent with the master plan and providing a variety of housing types. He does believe for those reasons they meet the positive criteria for the granting of a D1 use variance. Mr. Kauker explained, with respect to the bulk variances, there are a few required for this application. Mr. Kauker presented a case to the board that stated when the board considers a D1 use variance, they should consider the overall site design when evaluating a request for the C variances. Mr. Kauker stated the first deviation would be minimum lot width, 100 ft. is required where 42.16 ft is proposed. This would be a hardship related to the pre-existing condition of the property. The properties on either side are fully developed. In addition, it is somewhat unique as it is only for the front portion of the property. 40% maximum impervious coverage is permitted and they are proposing 62.5%. This would be justified by a C2 variance. The benefit would be that there would be parking provided and proper onsite circulation for the town home. Mr. Kauker stated proper drainage would be put in place. They are providing adequate space and setbacks. Mr. Kauker stated what they are proposing for open space is consistent with what exists. Mr. Kauker stated 30 ft. and 2 stories is permitted. They are proposing not to exceed 30 ft. in height and will meet the numerical requirement. It will be three stories and will require a C variance in the deviation of a one story. It is necessary to accommodate the appropriate development of the property. It allows for garage parking, which is a benefit to the public. It is consistent with other taller buildings in the area, such as the church located on the opposite side of the street. There is a variance for side yard setback which was created, where 15 ft. is required and 13 ft. is proposed. There is a total setback requirement of 30 ft. and 34 ft. is provided. The variance was created as a result of the applicant modifying the plan to accommodate better fire access to the property and for better circulation as recommended by the fire department. The minimum driveway width is 17 ft. permitted, where 20 ft. is proposed. It is necessary to accommodate the town home style development in the area. It provided safe and adequate circulation to access the development in the rear of the property. Three feet is not going to be readily noticeable to the eye. There is 80-85 ft. to the rear of the subject property and mitigates it. The maximum curb cut is 20 ft. permitted, where 26 ft. is proposed. The mitigating factor is with respect to the depth of the property where it is going to be located and the site it is accessing. The last bulk variance required is for the water main enclosure. There are two variances. The side yard setback of 15 ft. is required, where 3 ft. is proposed and is also in the front yard.

Mr. Rosenberg stated it's a water heating box and may not be required by Suez Water.

Mr. Kauker stated if it's not required, then they won't need the variance. The negative criteria consists of two parts. There is one additional step to the negative criteria. They must reconcile that this is not a permitted use in the zone. Mr. Kauker stated, in his opinion that granting the variances would not substantially impair the neighborhood or the surrounding area. The compact development in town home style development would result in further impacts as the development would be focused on the interior portion of the property, away from the public street. There would be setbacks to all the neighboring properties, as well. There would not be a significant increase in traffic resulting from the six units. In addition, there is adequate light air and open space provided with the proposed development.

Mr. Rosenberg inquired if there will be any impact to the school children in Bergenfield.

Mr. Kauker stated he didn't do a specific analysis. The six town home units will not generate a significant amount of school age children to negatively impact the school system. There will not be a substantial impairment to the intended purposes to the master plan or the zoning ordinance. They do meet the goals and objectives of the master plan. The requested variances do not impair the intent of the master plan or the zoning ordinance. Mr. Kauker stated even though they are located in an R5 zone, the subject property and the development is located in the interior portion of the property and it would adequately support the proposed use. Also, the master plan indicates a number of times there is a need for a variety of housing types within Bergenfield. There isn't a lot of vacant land left in the borough of Bergenfield. This is an opportunity and a unique development form in Bergenfield.

Mr. Rosenberg requested confirmation from Mr. Kauker that 40% lot coverage is permitted in the zone. The lot was subdivided into two lots, each 10,000 sq. ft. He inquired if there could be 80% lot coverage combined.

Mr. Kauker stated that is correct. Yes, if you were to subdivide the lot into two separate lots. Mr. Kauker stated you could have 2 two family homes on the property because the lot is so large. It would be more impactful since they would not be attached as opposed to the six town homes that are attached. Mr. Kauker stated he believes for all the reasons he discussed, the applicant meets the burden of proof related to a D1 use variance, the C bulk variances, and the positive criteria far outweighs the negative criteria.

Board engineer Fuentes stated the revised conceptual plan lists the six town homes as having two bedrooms, while the original application lists three bedrooms. He inquired if that is correct.

Mr. Rosenberg stated it was always 2 bedrooms.

Mr. Solomon stated that is correct, on the third floor there are two bedrooms.

Chairman Stein confirmed that there is a room downstairs that is set aside for another purpose.

Mr. Solomon stated it is an office leading to the rear yard.

Board member Berger stated she is concerned about the safety of the pedestrians walking through the driveway. She inquired how they are segregated or is there a curb set aside for pedestrians. Mrs. Berger stated they are not expecting any pedestrian traffic even though the proximity to Washington Avenue was mentioned.

Mr. Lamothe stated it is just a driveway. They are not proposing a sidewalk. There wouldn't be much pedestrian traffic. It is a 20 ft. driveway and there would be room for someone to walk up. They are proposing new sidewalks across the driveway.

Mr. Kauker stated there are sidewalks proposed that exist along Hickory Avenue. The pedestrian safety is a good reason for the width of the driveway. That does help provide safe means of access for a pedestrian walking down the driveway.

Board member Steinel stated the piece of open land mentioned in Mr. Kauker's testimony shown in the aerial photo should be developed. He stated he thinks Mr. Kauker didn't mean to convey that every parcel of land in this town should be developed. According to Mr. Kauker's testimony, the owner could put in

four units, 2 two family homes, and not have a use variance. It is because they want to maximize the amount of people on the property.

Mr. Kauker stated Mr. Steinel misunderstood what he meant. They are proposing a development that fits in on the subject property. There is a unique opportunity in this instance to develop a unique town home style development. They did evaluate what can be accommodated on the site. The only variance required was a side setback which was a result of accommodating comments made from the fire experts and the board. He did mention the property could be subdivided into two lots and develop two family homes on each lot. If they were 4 two family homes, they would be more than two bedroom units in each dwelling. You would generate more bedrooms from those 4 two family homes. The more bedrooms you have, the more school children and people would be generated. You would also be required to have more parking on the parking.

Board member Smith stated the master plan mentioned new developments should be happening within the borough, but the new development should be consistent with the surrounding area. He doesn't see this plan being with what is in the surrounding area. Mr. Smith stated Mr. Kauker needs a better explanation for the curb cut and doesn't agree about the width of the driveway being safe for pedestrians. He inquired if Mr. Kauker looked at future development over there. Mr. Smith stated if they grant the different variances, it creates more problems. There are other areas in town for development mentioned in the master plan and are not in residential areas. The church and the deli are already there. Everything that Mr. Kauker is pointing out have been there before there were homes. The homes were built around them before the zoning laws came into existence. He again inquired how this plan is consistent with the area. Mr. Smith stated, in his opinion, Mr. Kauker has not met the positive and negative criteria. Mr. Smith inquired why they didn't take into consideration eliminating 1 town home.

Mr. Kauker stated the reason for controlling the width of a driveway is aesthetic. The compact nature of town homes is consistent with the neighborhood. Mr. Kauker stated Mr. Smith is talking about setting a precedent. Each application has to be dealt with on its own merit. Mr. Kauker stated this is a fully developed area, with the exception of this property. In order to accumulate 21,000 sq. ft., they would probably have to buy more than 2-3 of these homes. Mr. Kauker stated that is why this property is unique and in his opinion, what they are proposing is consistent because the town homes are compact and would fit better on the property. They are just attached single family homes. The applicant has made an effort to create something that fits in within the existing land use pattern in the neighborhood. Mr. Kauker stated eliminating one unit is not going to have an impact on the variances being requested.

Mr. Morf inquired if there is any reason they can't build two single family homes or two duplexes as it would help with the bulk variances.

Mr. Kauker stated what they are proposing is a better planning and zoning alternative.

Ms. Berger inquired who they are marketing to and at what price. She inquired if that is consistent with the neighborhood.

Mr. Rosenberg stated those questions were addressed in Mr. Solomon's testimony.

Mr. Solomon stated they are targeting young professionals with a double income. The price range is \$500,000-600,000 with upgraded fixtures, countertops, etc. Mr. Solomon's response was yes. It is a short walk to the bus that goes to New York.

Board member Friedman stated nowhere in an R5 zone in Bergenfield are there more than two attached dwellings. He inquired if that is Mr. Kauker's understanding. Mr. Kauker can't say that this would not be

the first such development in an R5 district in Bergenfield. If he is right that there are no such developments in Bergenfield in the R5 district, then this would be the only one. Mr. Friedman inquired if that would influence his opinion that it would be consistent or inconsistent with the zone plan. Mr. Friedman inquired in determining this project would be a detriment or, it is irrelevant whether there are any such attached housing projects in Bergenfield in R5 zones, whether they are 3 units, 4 units, 5 units, or 6 units. Mr. Friedman inquired whether or not there are any attached unit developments with more than two units in a R5 zone in Bergenfield has no relevance. Mr. Friedman stated the master plan has had revisions, comments, and studies done along the way. In none of those, has the governing body suggested there should be a six unit attached development be built in a R5 zone. Mr. Friedman stated there was nothing he saw that suggested that a multi-family development like this should be built in a R5 zone.

Mr. Kauker stated he can't answer the question as he did not do an analysis of the entire R5 district and what uses exist within the R5 district. Mr. Kauker stated he could not confirm that. Mr. Kauker stated he evaluated the master plan and the zoning ordinance for the community. He believes there are unique circumstances related to the property that would justify the deviation from the ordinance. Demands change over time. When the zoning ordinance was first written, when the properties were developed, there was a need and desire for smaller homes on separate lots. The trend now is somewhat smaller homes in certain areas, but they are trying to accommodate growth the best they can. You have the higher density development closer to a main street. Mr. Kauker stated he looks at the sites specifically. If there were other properties in the immediate area that were developed for that use, he would bring it to the board's attention. If there is another R5 zone that's located five miles from this property in some other direction, he doesn't think whether or not it were developed with a multi-family home or not, it would not have a bearing on this application. Mr. Kauker stated that is correct. Mr. Kauker stated that is why the variance process is in place. The master plan does talk about development and providing diversity. Mr. Kauker's response was yes.

Mr. Stein stated the planner has to come to the next meeting, Monday, July 12, 2021. The board will open it up for questions from the residents. Final summation will also be made. The meeting will be via zoom.

#### **MOTION TO ADJOURN MEETING**

**Motion By:** Sara Berger

**Second By:** Charles Steinel

**All ayes. None opposed.**

Meeting was adjourned at 10:58PM.

Respectfully Submitted,

  
Hilda Tavitian, Clerk  
Zoning Board of Adjustment