

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
April 4, 2022**

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 March 28, 2022 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 Mr. 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 code requirements that are set forth in Bergenfield's zoning ordinance. Typically, we hear two types of variances. The first is whether an applicant can vary from land 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. 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.

OATH OF OFFICE TO APPOINTED/REAPPOINTED MEMBERS

Sara Berger
Jason Bergman

Oath of office was administered to board members by Board Attorney Gloria Oh.

ROLL CALL

Present: Shimmy Stein, Richard Morf, Sara Berger, John Smith, Amnon Wenger, Jose Morel, Jason Bergman, and Marc Friedman

Also Present: Gloria Oh, Zoning Board Attorney, Carlos Fuentes, Zoning Board Engineer, Councilman Thomas Lodato, Planning Board Liaison, Councilman Rafael Marte, Council Liaison, and Hilda Tavitian, Zoning Board Clerk

APPROVE MINUTES OF PREVIOUS MEETING – March 7, 2022

Motion By: John Smith
Second By: Richard Morf
All ayes. None opposed.

CORRESPONDENCE

Chairman Stein stated the only correspondence he has received is regarding the Dunkin Donuts which is part of the application.

VERBAL COMMUNICATIONS

Comments by members of audience on matters no on evening's agenda

OLD BUSINESS

1. Resolutions:

Rick Russell, 39 E. Central Avenue, An addition

All ayes. None opposed.

Michael & Rivka Zauderer, 438 Wildrose Avenue, An addition

All ayes. None opposed.

Chairman Stein reminded everyone that the May 2nd, 2022 Zoning Board of Adjustment meeting will be back indoor.

2. Application:

Avram Zamist
16 Glenwood Drive North
An addition
Carried from March Meeting

Avram Zamist, Kaz Development Group, applicant, stated he is seeking variances for front, rear, side setbacks, lot and building coverage. If the application is approved, it will enhance the property and the neighborhood. Mr. Zamist stated one of the challenging elements to the design was creating open, symmetrical spaces.

Sean McClellan, civil engineer, shared on the screen the site plan dated 8/19/21 (Exhibit A-2). It's in the R5 zone with 5,781 sq. ft. The existing house is deficient in lot with front yard setback by 23.19 ft., where 25 ft. is required. The side yard setback is deficient, where 5ft is required and it is 4.8 ft. The impervious coverage is 45.7%, where 40% is required. The lot is a triangle or pie shaped. The entire frontage is the front yard with two lot lines. Mr. McClellan showed the existing house and the detached garage on the site plan. They are keeping the same line of the existing house and the garage to make it one. The only enlargement is in the rear. The existing garage is currently 4.3 ft. off the property line and is going to be 3.4 ft. The existing house is 4.8 ft. and they are pulling it back in to be

conforming at 5.0 ft. The proposed conditions will reduce the impervious coverage from 45.7% to 44.8%. The house will require a seepage pit and there will be improvement with roof runoff.

Board engineer Fuentes stated the lot coverage variance is required and has been accounted for. It's not a normal shaped lot and they are pulling back on some sections of the existing footprint of the garage and dwelling. The rear yard is a unique situation, is not normal, and does not have a rear line. Mr. Fuentes stated they are requesting additional landscaping or fencing around the air conditioning units and all roof leaders go to the proposed seepage pit. Mr. Fuentes stated the seepage pit will handle whatever additional runoff there will be for the property. There were several, typical conditions included.

Board member Friedman inquired if a fireman would be able to get into the rear area with his equipment to put out a fire with the 3.4 ft. sideline distance proposal.

Mr. Fuentes stated there is a reduction from 4.3 ft. to 3.4 ft. which is something the board needs to consider. Mr. Fuentes stated maybe a single firefighter can get in and doesn't know how much equipment they would be able to get back there. There is fencing and a near driveway limiting the space.

Mr. McClellan stated there is over 6 ft. between the corner and the carport.

Board member Smith stated it concerns him that there is a fence and how firemen would be able to get their fire equipment onto the property. Mr. Smith stated they are shrinking the front and non-conforming and the curve is becoming less. There is going to be a line of sight issue making the front of the house closer to the road.

Mr. McClellan stated the current garage is 15.5 ft. and setting the corner back into the property 2.5 ft., further away from the street. The covered porch is closer than the existing house.

Mr. Smith stated he still sees a problem. They are shrinking the front of the house from 23 ft. down to 18.4 ft. That's a 5 ft. difference bringing it closer to the road. He was parked on the other side by the curb and almost was clipped by a car coming around the curve. He foresees accidents happening by coming closer to the curb.

Board member Morf stated the sideline of 3.4 ft. is too close. It has to be redesigned and brought down a little bit. It's too much house for the corner. Mr. Morf stated on the plan, it says addition and renovation, but on the other part it says build a new house. He inquired which is it. It needs to be redesigned to get rid of a variance or two.

Mr. McClellan stated it's a new house.

Chairman Stein stated the denial is based on a new house.

Board member Bergman stated he would like to see an impact study done with the new setback proposed.

Mr. Zamist stated a lot of time and resources was done studying the layout of the property and lot itself. He has owned the property for two years and the concerns of the corner are a by-product of the existing conditions. He referred to the town to put a slow-down marker. There are plenty of angles to put a slow down sign or flashing light.

Chairman Stein stated they can't base it on someone reading a sign. The board has an obligation to see a situation and either prevent or correct something. Mr. Stein stated you can't do speed humps. He stated the applicant has the ability to reconfigure as he is building from scratch.

Mr. Zamist stated egress of the house is larger than 3 ft. 6 inches, plenty of space to allow for access.

Hojoon Chung, architect, stated on the first floor there is a front porch, living room, dining room, family room, kitchen, and a den. The first floor is 1,761.6 sq. ft. There are five bedrooms on the second floor with four full bathrooms. The second floor is 1,761.6 sq. ft. The next page shows the elevations. They tried to keep it a traditional style and made sure it fits in with the neighborhood.

Board member Morel inquired if the garage is as existing.

Mr. Chung stated it is an existing garage but had to be modified.

Board member Smith stated the architect didn't talk about the line of sight problem. If there is a problem with the 23 ft. setback now and they are going to make it 18 ft., then there is going to be a bigger problem. Someone has to address the problem.

Mr. Zamist stated he would be able to get rid of the front porch. It would be 4 ft. off of the covered porch. He can also take 10 inches off of the side of the garage.

Board member Morf stated it's just too much and he has to get the five setbacks under control.

Questions from residents within 200 feet and beyond:

Cristino Vilorio, 14 Glenwood Drive, requested the application be denied as it is in violation of six difference variances. They need to conduction DOT to get back to regulations. He requested the board do what is right and to make sure the setbacks are 25 ft. on both sides to avoid accidents. The applicant is a contractor and knows all the regulations and burden when he purchased the property and is now saying the building is a hardship.

Adam Lenart, Block 291 Lot 17 (26 Glenwood Drive East) stated he is concerned with the line of visibility as he has a small son and cars come around the corner very fast. He is also concerned about the 3.4 ft. to his property line and proposed he stay within the required 5 ft.

Mary Sullivan, resident, inquired how many parking spaces there are for a five-bedroom house. It's the problem in this town with too many cars and not enough parking spaces.

Mr. Zamist stated there are two parking spaces. Two people in the house drive.

Chairman Stein stated the board's sentiment is that they are overbuilding the lot. He told Mr. Zamist his options would be either to continue to move forward with a vote or he could step back and redesign it.

Mr. Zamist stated the next step in redesigning would be keeping the existing structure and adding a second floor to it. In that case, nothing really changes to the front of the house. The traffic factor is not going to change for better or worse with this proposal.

Board member Friedman asked Mr. Fuentes if it is possible to put a speed hump in the road at that corner to slow the traffic.

Mr. Fuentes stated it's possible. A warrant analysis tells you how many cars go through a road at what speed. It needs to be demonstrated that 85% of the vehicles go through the road at a greater speed that's 5 mph faster than the posted speed limit. Mr. Fuentes explained if you can demonstrate that, the warrant is satisfied for a speed hump for that road. As far as he knows, there haven't been studies done on Glenwood Drive North or East and is something the borough can look into.

Mr. Smith stated the council has been discussing putting speed humps throughout town. The borough engineer has stated you can't put them on certain roads. Councilman Lodato can address the speed humps and if it can help the applicant.

Councilman Lodato stated there has to be a need for a speed hump for a particular road. He was advised that the installation of a speed hump has to be incorporated with the repaving of a road.

Mr. Fuentes stated it's not recommended to install a speed hump over a newly paved road. He stated it is inviting the possibility of cracking sections of the road to fail.

Mr. Zamist stated there are other mechanisms. He inquired what would it take for the town to install a flashing light.

Mr. Fuentes stated that it's up to the town to decide. It would have to be discussed with the borough engineer.

Councilman Lodato stated the thing would be to refer to the police department to review and do an analysis. It's not something that will be done in 30 days.

Mr. Smith stated the town is putting in a few speed humps but has taken a year because of the studies and everything else.

Motion to Approve Application to Keep Existing Building, Eliminate Front Porch and Variances:

Motion By: Shimmy Stein
Second By: Amnon Wenger
5 ayes. 2 nays.

A recess was taken at 9:37pm. The meeting resumed at 9:42pm.

Triple J. Family, Inc. D/B/A Dunkin Donuts Baskin Robbins
275 S. Washington Avenue
Drive Through
Carried from March Meeting

Board member Richard Morf recused himself.

Mark Madaio, attorney for applicant,

Jay DeLaney, Lindabury McCormick, Estabrook and Cooper, Westfield, NJ, attorney in place of Mr. Simon on behalf of Mr. Peters (adjoining neighbor), stated he was present at the last meeting at which time the issue of res judicata was discussed.

Mike Hubschman, project engineer, shared on the screen the site plan (Exhibit A-2) dated 6/25/21 showing the existing conditions. There were some revisions dated 3/14/22. The revisions were made in accordance with the borough engineer's letter and county comments. They have obtained partial approval from the county. It is Block 253 Lot 17 and on the corner of S. Washington Avenue and Magnolia Avenue. The site is existing 100 ft. deep by 160 ft. wide. It is in the B2 zone which permits this use, except that it has to have 200 ft. of frontage.

Mr. Madaio stated in the B2 zone, drive throughs are a permitted conditional use. They are here for a permitted drive through. The condition in Bergenfield is you need 200 ft. frontage on one street. Mr. Madaio explained they are in excess of 200 ft. of frontage, but is not on one street. It is on two streets requiring a D variance.

Mr. Hubschmann stated the building is 2,500 sq. ft. and is level. The parking is south of the building and the entire south side and the rear is paved. There is an existing trash area in the rear. Mr. Peter's insurance company is to the right and his office is on the left side. Mr. Hubschmann explained the R5 zone is to the rear of the site. There are single-family houses to the east. All of the roof leaders are tied to a pipe that runs to the curbing on Magnolia Street. There is an entrance and exit on South Washington Avenue and a rear exit.

Mr. Madaio stated there is a two-way driveway off of S. Washington Avenue with unrestricted turns and a two-way driveway on Magnolia Street with unrestricted turns.

Mr. Hubschmann stated it includes ingress and egress from Washington Avenue. The existing site is paved all the way across and they are proposing to redirect the entrance more in the middle of the paved area. They are proposing to create a second driveway for the drive through, which would be two lanes. Mr. Hubschman stated they would reconfigure the parking lot with new curbing of the rear of the site, construct a new refuse area, new striping, and two lanes (one for ordering and the other for mobile ordering) for the drive through. There will be a green preview menu board, a green order canopy as you come around the turn, come around toward Magnolia Street to pick up order, and exit onto Magnolia Street. The existing parking comes almost up to the right of way line. The county had required them to push it back a little so it didn't interfere with the 20 ft. setback for the cars. The drive through lane to the north will be for people driving in and ordering at the menu board and then proceeding to the pickup window.

Mr. Madaio stated the southern most drive through lane will be for people who use the mobile app and order from their cell phones and then similarly drive through but don't have to stop at an order board to place an order.

Mr. Hubschman stated there is no change to the footprint of the building, with the exception of the canopy in the rear over the drive through window. There is a new canopy in the front. They will be adding a brick patio with landscaping in the front. Mr. Hubschman stated the Magnolia Street setback is 15 ft. required in the zone and is 9.8 ft. with the existing building, which will not be changed. The improved coverage on the site is at 89.7% existing. They will be moving almost 10% of the paving because of the county requirement. They added a lot of landscaping in the front and the left side of the site. They are down to 80%, which is still over the 70%. There is considerable reduction in area. There's a buffer width requirement for the residential zone. The existing is 0 with the fence on the east side. Mr. Hubschman stated they are proposing two ft. by adding landscaping in the buffer area. The minimum frontage for a drive through is 200 ft. They have approximately 250 ft. but it's not continuous frontage, requiring a D variance. There is no parking variance required. The driveway width is being reduced. There are some variances relating to the signage. They will be milling and repaving the lot and adding some drainage. The electric and gas are in the rear. The meters are being

moved to the left side of the building. The site currently drains to the street and there is an opening in the rear and drains to the properties on the south. They will be adding four basins connecting to the drain in the street. They won't be providing a seepage pit since they will be reducing the impervious coverage. There will a 1% slope. The new entrance will require to have DWS on the sidewalk. They will repair any part of the sidewalk along with new curbing, along the entrance and the parking lot. A new PVC fence will be required. The site will have new perimeter curbing. There will be no runoff to the neighbors. The roof leaders will be reconnecting to a rain garden. They will be keeping the wheel stoppers. He reviewed the landscaping plan. There are some variances required for the signage. Mr. Hubschman stated there are seven wall signs when only one is permitted around the building.

Chairman Stein stated notice of the May meeting being live was given at the last meeting and tonight. It will be on the borough website and on all notifications. The application is carried to the Monday, May 2, 2022 meeting with no further notice necessary.

Mr. Madaio stated the applicant will extend the time as necessary for the board to continue to do their work.

Chairman stated the application for Enrique and Cristina Urquiola, 87 Hickory Avenue will be carried over to the next meeting with no further notice necessary. They will be the first ones heard at Borough Hall in the Council Chambers.

NEW BUSINESS

Applications:

1. 8th Day Caterers
69 West Main Street
Second Floor Addition

Dovid Lisker, applicant, stated a year ago the roof had blown off in one of the big storms and after getting some insurance money, they decided to expand up to have some additional storage space. It will just be a simple box and it shouldn't affect the neighbors.

Board engineer Fuentes stated there are five different existing non-conforming conditions that are not being altered by the proposed application. He stated since this is not a defined use in the borough's parking ordinance, he didn't believe there was a defined number of parking spaces needed to be provided onsite. He asked Mr. Lisker to discuss the day-to-day activities of what happens at the building. Mr. Fuentes inquired about the number of employees.

Mr. Lisker stated they are a caterer and produce food on location. The food will be taken to other locations. They have catering events offsite, nothing onsite. They receive deliveries of produce and fish during the day. There's only an occasional customer to drop off payment or make orders. There is no retail at all. Mr. Lisker stated there currently is four full time employees and if they are busier, they will have 1-2 part time employees.

Mr. Fuentes stated based on the testimony provided and the section of the ordinance about parking, the board has the discretion as to how many parking spaces should be provided. A retail use is required to have four parking spaces per 1,000 sq. ft. of store area. This is not a retail store and that would be too many parking spaces (12 spaces), which would not fit. Industrial use only requires one parking space per 1,000 sq. ft. of floor area, making it approximately 3-4 parking spaces. Mr. Fuentes stated this seems to fit with the use and need of the location. It's closer to a manufacturing use than it would be for a retail use

requirement. He stated there isn't a parking issue and there isn't enough frontage on the property to provide the spaces required for retail use.

Board member Friedman asked Mr. Fuentes if either the minimum required drive aisle and maximum drop curb length are of concern to him now.

Mr. Fuentes stated it is no longer a concern based on the information just given. The curb length is part of an existing non-conforming. The required drive aisle only comes into play when you have more parking spaces. This is more of a pull in pull out arrangement with little number of spaces required than needed to provide an aisle.

Mr. Friedman stated he visited the site yesterday and noticed the parking lot was covered with vehicles, trucks and SUV's, and if he wanted to pull in he would not have been able to. He inquired if that is a normal condition for the use of the property.

Mr. Lisker stated some of those vehicles are delivery vehicles and some of them are employee vehicles. It is typically full over the course of the day.

Board member Smith inquired what is going to be done about the run off water. He went to the site twice during the week and saw a vehicle couldn't get in because of the vehicles parked there. The driver got out of his vehicle, went in, and people had to move their cars. Cars backed out onto Main Street, which they are not supposed to. The turnaround is needed so they don't back out into the road. He was there during the rain and the water was coming down the driveway.

Board engineer Fuentes stated it's a vertical expansion and whatever runoff there is now will not be affected by the proposed application. It will be the same amount of volume and rate of stormwater runoff coming from the site. Mr. Fuentes stated he wasn't aware as Mr. Friedman mentioned that most of the time the parking lot is full. Mr. Fuentes stated his statement was that there was sufficient room to back in and make a turn within the site because there is sufficient frontage and setback depth to the building and to make the turn onsite. If there are any obstructions, that is something that has to be revisited.

Mr. Lisker stated there is a large parking lot in the front with back-to-back parking. The delivery trucks pull in front of the building as they don't fit in the driveway when they deliver. He didn't understand that there is supposed to be a turnaround in the back. Mr. Lisker stated he can have employees parked on the street during the day.

Chairman Stein inquired if there is a way to get rid of a car or two to make it easier for a car to pull in.

Mr. Smith stated maybe the gutters may need to be fixed which might help with all the runoff he had observed.

Mr. Stein stated should the application be granted, the applicant will be asked to fix the leaders and gutters in the resolution.

Mr. Lisker stated the water is not running off properly because there still is a tarp on the roof and will be fixed as soon as the project is completed.

Questions from residents within 200 feet and beyond:

No one came forward.

Motion to Approve Application & Grant Requested Variances:

Motion By: Amnon Wenger

Second By: Sara Berger

All ayes. None opposed.

2. Enrique & Cristina Urquiola
87 Hickory Avenue
An addition

Carried to May 2, 2022 meeting with no further notice necessary.

3. Adam & Tamar Stein
78 Lee Place
An addition and a porch

Mark Madaio, attorney for applicant, 29 Legion Drive, Bergenfield, NJ, stated the only thing they are adding is an open front porch. There are no other improvements to the structure. The porch will face westward toward Lee Place and northward on Lee Place. The application is being proposed as a C2 criteria.

Piero Gabucci, project architect, shared on the screen the proposed renovations. The front of the house is setback from the 25 ft. required on the westerly side. The porch extends to the northerly side of Lee Place.

Mr. Madaio stated they are here for the addition of the porch in which the front portion conforms to the Lee Place front yard setback. The issue is the portion of the porch that goes around the house is only 5 ft. from the property line, where 15 ft. is required. They are before the board just for the portion of the porch that goes around the house.

Mr. Gabucci stated the return is about 65 sq. ft. It is open and is as depicted on the diagram.

Mr. Madaio stated they are 3.4% over the lot coverage according to the engineer's letter. The only thing for lot coverage they are asking is for the front porch. They are less than the requires improved lot coverage as they are swapping out some of the other coverage items for pavers.

Mr. Gabucci stated the required is 40%. The existing is a little over 47%, which is 2,803 sq. ft. Mr. Gabucci stated by replacing the existing driveway with permeable pavers and receiving 50% credit, it is being reduced to 2,773 sq. ft. The building coverage is 29% and will be 33.4%, adding a little over 200 sq. ft. It will be all open front porch. They will replace the existing driveway which already extends to the property line. It will just be replaced for the permeable credit.

Chairman Stein stated there isn't a 50% credit. It will be 10% on the coverage, not 50%.

Mr. Madaio stated the application is a C2 application and the benefit to the purposes of zoning outweigh the detriments.

Mr. Gabucci stated the Steins have done a nice job renovating the house in the past. The porch is a way to beautify the house and to make it street friendly. People spend a lot of time on their porches and front lawns in this community. It is predominantly an aesthetic decision more than a functional decision. Mr. Gabucci stated the current house is already in that setback and non-conforming. There is less surface runoff because of the permeable paver. The draining of the porch would be taken care of whether it be with a seepage pit or by some other means.

Mr. Fuentes stated he agrees with the calculations. There is a provision in the borough ordinance for the 10% increase in the lot coverage and allowable improved lot coverage. There also is a separate provision for additional credit for permeable pavers. The additional credit is determined on a case by case basis. Mr. Fuentes stated in this case, the applicant is presenting a 50% reduction on the permeable pavers. One of the provisions for that part of the ordinance is that they need to provide additional details of the layout and make up of the paver so the borough can make a decision as to the 50% credit is within a reasonable engineering factor for the 50% reduction.

Board member Berger inquired how much does the side porch add in terms of beauty and necessity.

Mr. Gabucci stated, if they don't extend it, the actual porch becomes less functional. The depth of the porch is only 6 ft. If you eliminate the corner, you only have a cover for the front door. It makes a significant difference in the usability of the front porch.

Board member Smith stated he is worried about the wrap around portion of the front porch from either way and about the line of sight. He inquired if they are always going to leave it open.

Board member Wenger stated you can't take that curve more than 5 miles per hour.

Chairman Stein stated they can stipulate that they can't enclose the porch.

Board member Morf stated they should eliminate the part that goes around the side because it is only 5 ft. from the property line. The porch should end at the end of the house and doesn't wrap it around.

Questions from Residents Within 200' and Beyond:

No one came forward.

MOTION TO APPROVE APPLICATION

Motion By: Amnon Wenger

Second By: John Smith

6 ayes. 1 nay.

MOTION TO ADJOURN MEETING

Motion By: John Smith

Second By: Jason Bergman

All ayes. None opposed.

Meeting was adjourned at 11:00 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk

Zoning Board of Adjustment