

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
November 7, 2022 8:00 PM**

Chairman Stein called the meeting to order at 8:03 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 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 that matter.

PLEDGE OF ALLEGIANCE

Led by Mr. Smith.

OATH OF OFFICE TO NEW BOARD MEMBER

Nishant Desai, Alternate #2

Oath of office was administered to new board member, Nishant Desai, by Board Attorney Gloria Oh.

ROLL CALL

Present: Shimmy Stein, Richard Morf, John Smith, Amnon Wenger, Jason Bergman (arrived at 8:40pm), Marc Friedman, and Nishant Desai

Absent: Sara Berger (excused) and Jose Morel (excused)

Also Present: Gloria Oh, Zoning Board Attorney, Robert Yuro (on behalf of Joseph Kong), Board Engineer, and Hilda Tavitian, Zoning Board Clerk

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's 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. 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.

APPROVE MINUTES OF PREVIOUS MEETING

Motion from Board Members to Approve Minutes – September 29, 2022 Special Meeting & October 3, 2022 Regular Meeting

CORRESPONDENCE

None.

PUBLIC COMMENT

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

OLD BUSINESS

1. Application:

Michael Yunger
72 Norfolk Street
In-Ground Pool

Chairman Stein stated they are seeking two variances, requesting 62.3% lot coverage and setback of 8 ft.

Michael Yunger, applicant, stated they are asking for two separate variances. They are asking for a variance above the existing lot coverage. Mr. Yunger stated when they initially renovated the house many years ago, items such as paver driveway, paver walkway, and paver patio were not included in lot coverage. They would have not gone over the limit if the town had not made changes. They are asking for 8 ft. setback, where 10 ft. is required. There currently is an existing patio and they would like to have a safe, comfortable space for people to sit, lounge, and walk around the pool area.

Board engineer Yuro stated he doesn't see any impacts with stormwater runoff with the construction of the pool.

Chairman Stein inquired if there is anyone that would be impacted by the 8 ft. setback and inquired what is behind it.

Mr. Yunger stated, currently, the backyard neighbor has mature trees that are over 30 ft. tall. There's a fence and they are planning to put additional shrubbery behind the pool.

Mrs. Yunger, applicant, stated the fence of the backyard neighbor is slightly in their property with a retaining wall, which is one of the reasons they will be putting some shrubbery behind the pool.

Chairman Stein inquired how many feet is that area. He inquired if there is any way to minimize the coverage, by putting grass instead of pavers.

Mr. Yunger stated they will be taking away a small part of the existing patio, reducing some of the current paver coverage. They will put grass around the pool so they don't increase the lot coverage.

Board member Wenger stated every time you put in a pool, there is an increase in lot coverage and might hold more water. It is already pre-existing nonconforming and he doesn't have any issues with the application.

Chairman Stein stated it is already at 55%. The pool can hold up to 6 inches of water.

Board member Morf suggested shortening the pool by 2 ft. and bringing it to 10 ft. in the back.

Mr. Yuro stated the actual length of the pool is 32 ft towards the rear of the property. Then, there is a 2 ft. concrete sidewalk. The actual pool is 10 ft. from the property line. The 2 ft. concrete is 8 ft. from the property line and meets the ordinance requirements.

Chairman Stein stated they can eliminate the one variance right now.

Board member Smith stated he measured it and he didn't get 10 ft. He stated the fence is the applicant's fence and is 2 ft. off the property. Mr. Smith stated it's already nonconforming and they are going to increase the coverage more. The law states you can not increase it. It was made nonconforming in 2017. They will get grief from the building department and the Mayor and Council for increasing the nonconforming even more. He inquired if anything is being done with the deck.

Mr. Yunger stated there is a retaining wall that staggers 2 ft. between the fence and the property line. The landing to the deck is going to be removed and they will lose 20-25 ft. of the deck.

Questions from residents within 200' and beyond:

No one came forward.

Motion to grant Variance

Motion By: Mr. Wenger

Second By: Mr. Friedman

4 Ayes. 2 Nays.

F & D Washington Avenue Associates, LLC
20 Terhune Street
Proposed Multi-Family Residential Development
Carried from August 1, 2022 Meeting

Stephen Sinisi, 2 Sears Drive, Paramus, NJ, attorney for applicant, stated supplemental counts were done at the request of the board on certain dates, times, and condition of the weather. The use variances require five affirmative votes. Mr. Sinisi stated they will not call for a vote tonight.

John Corak, licensed traffic engineer from Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, NJ, stated he along with Matthew Seckler, completed the supplemental report (Exhibit A10, dated 10/28/22. The traffic counts were conducted on Monday, October 10th, 2022 and Thursday, October 13th, 2022 (which was inclement weather day). Mr. Corak explained they utilized their in-house field staff to do the observations along the roadways of the pedestrians, bicyclists, scooters, mopeds, and skateboards in front of the proposed site and the area that stretches adjacent to the site and Washington Avenue. The tables presented in the report indicate comparisons of the original report. The key finding is the counts from the two days were within 10% of the data collected previously. Mr. Corak stated there was higher volume in the counts on the inclement weather day, which was a very foggy day than in the volume of counts taken in September. However, it was still within 10% for the peak hour. People don't take trips if they don't have to. The volumes collected are within an acceptable range. School was in session those days. Mr. Corak explained the "2024 no-build condition" in the report refers to the condition of a roadway without this development. Trip generation shows there will be low amount of traffic generated use from the proposed multi-family development. There would be 9-10 trips in and out during peak hours. There aren't any substantial changes in the level of service. The traffic generated by this development is very low. There would be no adverse impact. There are a number of other retail type permitted uses that would generate a lot more traffic than the proposed multi-family development. Convenience stores, delis, and restaurants would generate 5-10 times more traffic.

Board member Smith inquired who did the count. Mr. Smith stated at the last meeting, he had mentioned counts be done on School Street, also and doesn't see counts for School Street. Traffic on School Street will have an impact.

Mr. Corak stated the field staff did the counts. Mr. Corak stated the focus was on Terhune Street and Washington Avenue.

Board member Wenger stated Mr. Corak testified that the proposed project would have no adverse impact. He inquired what the threshold is.

Mr. Corak stated they look at the change in the level of service and there are regimented guidelines that are followed.

Chairman Stein stated there would be a greater negative impact to the area if they were proposing a permitted use, such as a convenience store or a bowling alley.

Mr. Corak stated that is correct.

Board member Morf stated there is a lot of bulk. The setbacks are way off of Terhune Street. The required 15 ft. and the applicant has 7 ft., which is a lot. The ordinance calls for 3 stories and they are seeking 4 stories. Mr. Morf stated at the site plan committee meeting, it was suggested to lose the fourth floor.

Board member Smith stated even on the inclement weather day, there was an increase of pedestrians. Mr. Smith stated he has a problem with the bicycle count. He sees more kids going to school on their bicycles every day than what was in the report during 7:00-8:45am. He inquired why counts were not done on the opposite side of the school where kids are crossing the street. Mr. Smith inquired where in the report is indicated the parents who drop off their kids on School Street, go down Terhune Street, and make either a left or right turn.

Mr. Corak stated the crossing of Washington Avenue occurs outside of the vicinity. Mr. Corak stated the turning count is in appendix A8-A11.

Questions from residents within 200' and beyond:

No one came forward.

Chairman Stein stated there will be no vote tonight. There will be no more testimony. The vote will be on December 5, 2022 with no further notice.

NEW BUSINESS

1. Discussion of RFQ's

Chairman Stein stated the RFQ's for the board engineer and attorney will be distributed. He stated they have nothing to do the RFQ's. It will be distributed to the board once they come in. The board will vote on their choices for board engineer and board lawyer.

Board attorney Oh stated it's already on the website.

2. Application: 145 West Main Street, LLC
145 West Main Street
3 Two-Family Dwellings

Matthew Capizzi, 11 Hillside Avenue, Tenafly, NJ, attorney for applicant, stated the proposed application involves three building lots, two with frontage on W. Main Street, and one with frontage on N. Franklin Avenue. They are proposing to improve each lot with a two-family dwelling. Two-family dwellings are permitted in the R-5 zone. They are requesting some bulk variances, including setback and side yard.

Mike Hubschman, licensed engineer, stated he prepared the site plan. He stated the existing condition of the site is shown on sheet 4. The proposed area is 15,215 sq. ft. The property was subdivided into 3 lots a few years ago. There is an existing dwelling toward the front with an existing driveway and garage. The three separate lots in the R5 zone allows for one to two family homes. Mr. Hubschman stated they are proposing 3 two-family homes on each lot, each being 5,000 sq. ft. and will be smaller with 2-3 bedroom units. The building coverage and building height are conforming. There is an easement on the right side of the property, therefore one building, lot 6.01, will be pushed over. The front yard and rear yard setbacks are conforming. Side yard and setback variances are required. There are four seepage pits per 50 ft. proposed, where only two seepage pits are required. They will be following the existing grades. The driveways have a slight downward pitch. The entrance/exit will be off of Main Street. Mr. Hubschman stated they are proposing some landscaping for the property.

Board engineer Yuro inquired if Mr. Hubschman read the board engineer's review letter dated October 25, 2022. He clarified that it is in the R5 zone, where two family dwellings are permitted on a 10,000 sq. ft. lot. Each of the lots are 5,000 sq. ft. A variance is required for the lot size. In addition, a 100 ft. lot width is required, where each proposed lot is 50 ft. A variance is required. Mr. Yuro inquired what material will be between the right of way line and the curb line. He inquired if there will be a concrete apron. He requested testimony be given on the maintenance of the drywells and who is responsible. Mr. Yuro inquired if there are any problems with providing the additional information regarding drainage calculations.

Mr. Hubschman stated it is going to be asphalt. The driveways will be pervious pavers. Mr. Hubschman's response was yes. The homeowner is responsible. Mr. Hubschman stated the calculations will be submitted.

Chairman Stein stated Bergenfield DPW will pick up the trash. There will be a maximum of 6 containers on the street.

Board member Morf stated there is too much bulk. The driveways are too wide. Mr. Morf stated two of the houses are 3 ft. off the property line. He suggested either having two houses instead of three as they are 12 ft. off of Franklin Ave, where 15 ft. is required or building a duplex on the 10,000 sq. ft. and a single-family home on the other 5,000 sq. ft.

Board member Smith stated he agreed with Mr. Morf. He inquired if a traffic study was done. He stated the curb cut is going to have some impact on school traffic. He asked what the width of the sidewalk is. He inquired how many parking spaces are required. It's 2.5 parking spaces and only 4 parking spaces are being proposed. Mr. Smith inquired about the seepage pits being in the driveway.

Mr. Capizzi stated there wasn't one done.

Mr. Hubschman stated they can widen the drop curb from 25 ft. to 30 ft. The sidewalk width is 4 ft. Two parking spaces per unit (3 bedrooms) are required. He stated per RSIS, 2 parking spaces per unit is required for a bedroom dwelling.

Mr. Yuro stated the seepage pits in the driveway should be ok. The concrete structure being used for the seepage pit should be no different than the structural integrity than a drainage inlet that's in the roadway as long as there is a sufficient cast iron cover.

Chairman Stein stated two variances could be eliminated if they go down or reduce the curb cuts. Mr. Stein stated it meets RSIS standards.

Board member Wenger stated 2.4 parking spaces is for a three-bedroom townhouse. A two-family duplex follows a single-family detached house, which is 2.0 parking spaces for a three bedroom.

Questions from resident within 200' and beyond:

Barry Doll, 97 Highgate Terrace, requested clarification that the requirement for a two-family house is 10,000 sq. ft. in a R5 zone and the proposal is to build on 5,000 sq. ft. He asked how that request can be accommodated.

Mr. Hubschman's response was correct. They are proposing smaller two-family dwellings requiring some bulk variances with side yard setbacks.

A recess was taken at 9:28 p.m. The meeting resumed at 9:41 p.m.

Chris Blake, architect, stated the homes are all 2 family dwellings with three bedrooms each. There was an error in the drawings dated July 13, 2022, that were submitted. The side yard setback should be 7.75 ft. and 7.5 ft. is shown on the plan. He stated each unit will be side by side and 1,631 sq. ft. each. The lowest level will have a one car garage, mud room, powder room, mechanical room, and a recreation room. The living room, dining room, kitchen, and a powder room will be on the first floor. There will be three bedrooms, two bathrooms, and a small laundry closet on the second floor. The master bedroom will be 13x13 and the other bedrooms are not oversized. Mr. Blake stated the siding will be vinyl with wood windows.

Questions from residents within 200' and beyond:

Janet Rosado, lives adjacent to the proposed development, inquired what is the distance between the proposed property and her property. She inquired about water runoff. She stated she appreciates the applicant is building homes instead of a building. She inquired why not build only 2 two-family homes, instead of three, as the homes will be small.

Mr. Blake stated the proposal is 12 ½ feet away from the property line.

Chairman Stein stated there are two seepage pits in the front of the property and two in the back.

Elana Rosario, 14 S. Franklin Avenue, inquired how many feet there will be between the houses and what is required. She inquired what the requirement of the setback in the back is between the houses.

Mr. Blake stated there will be little more than 10 ½ feet between the houses. The requirement for two-family houses is 20 ft. apart. The proposal is 12 ½ ft., where 10 ft. is required.

Mr. Capizzi requested the application be carried to the December meeting so they may modify the curb cut and driveways and look at the dimensions of the homes. Mr. Hubschman will be back at the next meeting with the modifications.

Chairman Stein inquired if there will be more testimony at next meeting. He requested having discussion on the positive and negative criteria. He stated the application will be carried over to the December 5, 2022 meeting with no further notice necessary.

MOTION TO ADJOURN MEETING

Motion By: Mr. Bergman

Second By: Chairman Stein

All ayes. None opposed.

Meeting was adjourned at 9:54 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk
Zoning Board of Adjustment