

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
December 5, 2022 8:00 PM**

Chairman 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 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 Chairman Stein.

ROLL CALL

Present: Shimmy Stein, Richard Morf, Sara Berger, John Smith, Amnon Wenger, Jason Bergman (arrived at 8:07pm), and Nishant Desai

Absent: Jose Morel (excused) and Marc Friedman (excused)

Also Present: Gloria Oh, Zoning Board Attorney, Joseph Kong, Board Engineer, and Hilda Tavitian, Zoning Board Clerk

INTRODUCTORY STATEMENT

Read by Board member Wenger.

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 – November 7, 2022

Motion By: Mr. Smith

Second By: Mr. Wenger

All ayes. None opposed.

CORRESPONDENCE

None.

PUBLIC COMMENT

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

OLD BUSINESS

1. Resolution: Michael Yunger, 72 Norfolk Street, In-Ground Pool

Motion By: Mr. Wenger

Second By: Chairman Stein

All ayes.

2. Applications:

F & D Washington Avenue Associates, LLC
20 Terhune Street
Proposed Multi-Family Residential Development
Carried from November 7, 2022 Meeting

Chairman Stein stated all testimony for the application has been completed. Five yes votes are required to grant the variance application. There are only 6 board members present at the meeting tonight. Chairman Stein stated it is Mr. Sinisi's choice if he would like the board members to vote on the application tonight or at the next meeting.

Mr. Stephen Sinisi, 2 Sears Drive, Paramus, NJ, attorney for applicant, stated he would like to have the full board present when the vote is taken and would like the application carried to the January 2023 meeting.

Chairman Stein stated the application will be held over until January 9th, 2023 with no further notice necessary.

The meeting was resumed at 8:42pm.

145 West Main Street, LLC
145 West Main Street
3 Two-Family Dwellings
Carried from November 7, 2022 Meeting

Matthew Capizzi, 11 Hillside Avenue, Tenafly, NJ, attorney for applicant, stated they were before the board at the November 7th, 2022 meeting. The property has frontage on W. Main Street and N. Franklin Avenue. They are proposing to build a two-family dwelling on each lot that is permitted in the R5 zone. Mr. Capizzi stated they are proposing side yard setback variances essential to each building and driveway width for each building. Variances to lot area and lot width are existing conditions. Testimony was previously presented from Mr. Hubschman and Mr. Blake. Mr. Hubschman revised his plan set as of November 17, 2022, exhibit A2.

Board member Smith inquired if the resolution, previously approved by the Planning Board, was for single family homes.

Mr. Capizzi stated the side yard setback previously granted along the easterly side of lot 6.01 was for a single-family dwelling and that is why they are seeking it again this evening.

Mr. Mike Hubschman stated two minor revisions were made. The first reduced the drop curb width to 20 ft. The second revision was the landscape plan. They added shade trees and some green giant arbor vitae. The DPW didn't want to have anything planted by the sewer easement. Mr. Hubschman explained there will be some shrubs along the rear, 9-10 ft. arbor vitae and 6 ginkgo shade trees. Mr. Hubschman stated there will be 3 more trees around the perimeter, lower shrubs around the foundation, and perennial ground cover. It is all specified in the chart and will be a positive impact on the site. They are proposing more seepage pits per lot than the only one required. A soil survey and soil testing will be done per the engineering letter.

Board engineer Kong stated between the pavers and the sidewalk, there's supposed to be HMA material. He requested the detail sheet be revised to reflect that. Mr. Kong stated right now, it shows paver going all the way up to the sidewalk.

Mr. Hubschman stated it will be concrete and will revise the detail sheet.

Board member Morf stated they are proposing to build a two-family home on a lot that is half than what is required. He suggested eliminating one of the houses and make the two other houses bigger. There are two houses that are 3 ft. off of the side line. The width of the driveways is still 25 ft.

Questions from resident within 200' and beyond:

Janet Rosado, 135 W. Main Street, inquired if doubling the size of the lot is a requirement and if it's allowed. A home is going to be built double the size of what's allowed. She inquired if it's going to be 3 or 6 driveways and if there is going to be fencing around the property.

Chairman Stein explained based on the town ordinance, it is not allowed. The Zoning Board of Adjustment is to allow to deviate from the ordinance. Every application is judged on its own. Precedence is not a reason to approve or deny an application.

Mr. Hubschman stated there are going to be three driveways. There will be one driveway for each garage. They are not proposing any fencing. The property owner might put up a fence.

Barry Doll, 97 Highgate Terrace, inquired if the only variances being sought are side yard variance and curb cuts. He inquired if there are 4 seepage pits proposed. He inquired why there will be four for each lot. He inquired about the stream that is behind the property and if any studies were conducted in the event of heavy rain. He inquired how much are the buildings going to cost and the taxes.

Mr. Hubschman stated variances are needed for the driveways, side yards, and lot area. It is proposed to have four seepage pits per lot. They like to oversize for water retention. The stream is fairly far away.

Mr. Capizzi stated that's not relevant. It's more than what is being paid today.

Board member Wenger stated that is not something the board is allowed to consider.

David Spatz, planner, stated he reviewed the site plan, the architect's plan, the zoning ordinance and master plan, and walked around the property. The property is in the R5 zone which one and two-family homes are permitted. The proposal requires variances for lot area and lot width. The building in the corner requires a front yard variance along N. Franklin Avenue. The driveway widths provide sufficient space

for garage space and extra space for snow removal. New sidewalks are proposed. Mr. Spatz stated the buildings don't exceed previous coverage. There is nothing substantially negative with the proposal. The homes are consistent with the neighborhood. There are sufficient parking spaces being provided. Mr. Spatz stated due to the easement, the one building was pushed a little further west creating a greater side yard. The hardship is that it is a corner lot with two front yards. If it was treated as a side yard, it would be conforming. Mr. Spatz stated the 2017 reexamination report of the master plan discussed residential housing that fits in context of the neighborhood and is consistent with the master plan. There is adequate drainage being provided. Mr. Spatz stated the landscaping will provide buffers between the properties and will enhance the property and the neighborhood.

Board member Berger inquired if it would make sense to put a fence along the N. Franklin Avenue side.

Mr. Spatz stated it's something that could be done as you don't want children to trespass on the property. It wouldn't be unreasonable as the front yard might be 4 ft. instead of 6 ft.

Board member Morf stated they are proposing to build a two-family house on a lot that is half of what is required. You have a side yard variance on N. Franklin Avenue and two houses sitting 3 ft. from the property line. He suggested they eliminate one house and have two bigger houses to get the setbacks in order. The driveway is 25 ft. wide and you are only supposed to have 19 ft. It is just too jammed and is too much.

Mr. Spatz stated the setbacks are not related to the size of the one or two-family house. The setbacks are squeezed in due to the easement.

Board member Smith stated it was originally said there would be space in the driveways to put the snow. The plan is not going to work based on the size of the building. There are going to be 18 bedrooms and only 2 parking spaces. Mr. Smith stated resolutions were passed that changed the master plan. He inquired if Mr. Spatz looked at those resolutions stating where they wanted the houses to be. The width and curb cut of the driveway is too big. There will be safety issues with the school being there which was not discussed. He inquired if Mr. Spatz saw the children walking to school on N. Franklin Avenue in the daytime, before school, during school time, and after school time. Mr. Smith stated inquired, in Mr. Spatz' opinion and experience, does the number of parking spaces required by RSIS work with the proposal. Mr. Smith stated in his area, they are building 5-6 bedroom houses and parking spaces aren't needed. When their children are of age to drive, there is no space for them to park their cars.

Mr. Spatz stated the resolutions do not prohibit two-family houses. Mr. Spatz stated there are a certain number of parking spaces required by RSIS and they are providing that.

Questions from resident within 200' and beyond:

Maria Ng, 160 Graphic Blvd, inquired where they are going to put the snow as there is no sidewalk to put it and the driveway is only 75 ft.

Mr. Spatz stated the snow would be piled on the sides of the driveway.

Elana Rosario, 14 S. Franklin Avenue, inquired why they are building three two-family homes on a small lot and if they considered 2 two-family homes instead. She inquired if they thought about the aesthetics and how it will change the neighborhood. She inquired if they are not concerned the homes will be too close together. Ms. Rosario inquired if the safety of the children walking to Franklin School was taken into consideration. She requested some addresses of two-family homes in the area.

Mr. Spatz stated there are other two-family homes in the area and that was what was asked of him for the project. He stated what is being proposed is not any bigger than a single-family home. There are other single-family homes in the area with exactly the same location of setbacks. Mr. Spatz stated five lots were created. There would be no change whatsoever if two homes were constructed instead of three. There are five in the immediate area, including 115 W. Main Street, 109 W. Main Street, 62 W. Main Street, 76 W. Main Street, and 86 W. Main Street.

Nelson Reynoso, 14 S. Franklin Avenue, inquired if a traffic study was conducted. He asked why not. He inquired what is the distance between the three homes.

Mr. Capizzi stated no, a traffic study was not required.

Mr. Spatz stated there is 7.5 ft. between 145 and 143, 10.5 ft., and 12 ft. to the one on the outside.

Janet Rosado, 135 W. Main Street, inquired if all of the pedestrian traffic in a small space was taken into consideration and with the driveways being expended, there would be no space for the snow. There is a difference between a single-family home and a two-family home. The population is higher and there's the possibility of having more than two cars. The safety of the children walking to school needs to be considered. There already is a high accidental rate on Franklin Avenue. Ms. Rosado inquired if they are going to be two story or three-story homes.

Mr. Spatz stated the snow can be put on the side yards too, not only at the edge of the driveways.

Mr. Capizzi stated there is no site plan requirement for a traffic study. This is a fully developed neighborhood. There are single family homes, two-family homes, and commercial properties all up and down W. Main Street in close proximity to the school. Mr. Capizzi stated the variance is unavoidable in any circumstance due to the easement.

Board member Smith stated there is state law the driver needs to have a side view when backing out of the driveway.

Board member Bergman stated if the three homes were made into single family homes, the home on lot 6.01 would still require that variance.

Barry Doll, 97 Highgate Terrace, apologized for antagonizing anyone earlier. All of the homes in the area were built years ago when the law was different, the land was spread out more and there was more vacant land. Mr. Doll stated clarification is needed for two-family homes to be built in the area. He inquired if there is 12 ft. between each home or is that the distance to the property line.

Mr. Spatz stated again that two-family homes are permitted in the zone. Mr. Spatz stated there is 10.5 ft. between each building.

Alfonso Class, 135 W. Main Street, inquired if any of the two-family properties mentioned have three two-family houses that are together. It takes him 20-30 minutes to get out of his driveway every day and three more driveways are going to be built, 25 ft. each.

Mr. Spatz stated these are three separate lots next to each other. The three lots were already approved. If there were three single family homes built, there would still be three driveways.

Mr. Hubschman stated if they pushed the garages closer together, they would be able to get 19 ft. or 40% of the width. They would lose the islands.

Mr. Capizzi stated the curb cuts would then be conforming.

Board member Wenger inquired if it is safer to eliminate the extra variance and bring it in or would it be safer to have more space so there is more free movement.

Mr. Hubschman stated there is no discernible difference in safety one way or another. The curb cut will be at 20 ft., 40% of the frontage.

Chairman Stein stated the driveways will be 20 ft., instead of 25 ft., eliminating the need for a variance.

Comments from Residents:

Janet Rosado, 135 W. Main Street, inquired if the homes will be two or three stories. She stated the two-family homes will require 6 trash cans to be outside on the sidewalk where kids will be walking to school versus 3 trash cans for three single family homes. The population is not the same as a one-family home., 4-5 people versus possibly 12-15 people. It's not the same and would like the board to consider the dynamic and population. Mrs. Rosado stated the three lots don't match up to what's required. These homes are being built for profit and there is no consideration for the residents.

Mr. Hubschman stated the homes will be two stories and there will be a basement.

Elana Rosario, 14 S. Franklin Avenue, stated they have to think about it as if it was their neighborhood. It is going to not only violate the law, but the rules should be followed, and build what will fit in the lots. Everything is too small for the project. Ms. Rosario stated safety should be considered and not only making money.

Nelson Reynoso, 14 S. Franklin Avenue, stated he agrees with the other residents. The project is too ambitious. If the application is approved, it will set a precedent. He moved from the Bronx for a better quality of life. He requested the rules be followed and the two-family homes be built in a different area. It doesn't make sense to build three buildings on a small property. He expressed concern over the value of his property if the three buildings are built.

Barry Doll, 97 Highgate Terrace, stated schedule B was developed over many years and went through stages of many discussions with the Planning Board, the council, and whatever other group involved. It evolved into what the town decided they wanted to have built. Mr. Doll stated 10,000 sq. ft. is needed for a two-family home and is concerned about setting a precedent. It's a beautiful area and would like to see it maintained. He asked the board to vote no.

Mr. Capizzi stated in cases like this one, he appreciates the board members for sitting in and balancing the input from the public. He stated he didn't mean to be dismissive when he stated previously it was not relevant. Mr. Capizzi stated the reality is there are three lots today. Lot 6.01 will require a side yard variance regardless if it is a single-family or two-family home. The driveways are now conforming. There is no substantially negative impact on Ms. Rosado's property. The use of two-family homes are permitted in the zone. The house in the middle requires no variances and is fully conforming. Lot 6.03 requires variances due to it being a corner lot. They have satisfied the positive criteria. They have redesigned the driveways and have provided more retention for stormwater than required. The project can be achieved with no substantial negative impact.

Board member Wenger stated a little over a year ago, they were before the board for a much larger project. The board told them to go back to the drawing board and come back with something that was fitting with the use. Mr. Wenger stated he applauds them for going back. They are not here for a use

variance, but just for bulk variances necessary to do what the board told them to do. One of the variances was eliminated. There is going to be more seepage pits and retention than is required. Mr. Wenger stated they have been actively engaged in what the neighbors have been saying and they have made several changes along the way. Something is going to be built which is going to result in a minimum of three driveways. The board is not allowed to look at the impact of traffic, garbage or snow removal because all is permitted.

Chairman Stein stated 4 affirmative votes are required to approve the application. The change made was to remove the variance for the driveway based on actual footage, provide buffering, and the drawing will be amended to show the pavers are properly laid out.

Motion to Approve Variance Application, Subject to Conditions

Motion By: Mr. Wenger

Second By: Mr. Bergman

4 ayes. 3 nays.

NEW BUSINESS

1. Application: Robert Escott
55 Regent Street
Deck & Addition

Chairman Stein stated he resides within 200 feet of the property and recused himself.

Matthew Capizzi, attorney for application, stated they are seeking a one-story addition to the back of the house to create a bedroom suite. It will be an additional 220 sq. ft. There are two variances being sought.

Richard Bouchard, architect, stated it's a one-family residence, split level style house, in the R-6 zone. They are planning to take away an existing deck on the side of the house and replace it with a one-story addition and built a deck with the same footage at the rear of the house. The first floor will have the entrance, living room, dining room, family room, kitchen, proposing a guest room, a full bathroom, and a closet. The new deck will be off of the family room. They are proposing a second kitchen, a gym or recreation area for the lower level/basement with windows to the rear and the side. Mr. Bouchard stated the same materials for the addition will be used to match the existing house. The front yard setbacks and both side yards are non-conforming. The two variances are lot coverage and impervious coverage. Lot coverage currently is 31.5%, where 30% is the maximum. Mr. Bouchard stated by adding a room and building a deck, they are over at 35.38%. The coverage by improvements is 41.7% currently, where 35% is the maximum. The proposal will be 45.5%.

Mr. Capizzi stated the existing square footage is 2,676 sq. ft. and they are proposing 2,970 sq. ft. They are adding 296 sq. ft.

Mr. Bouchard stated they are required to hold 475 gallons and the tank has a capacity of 661 gallons, being over the capacity. The driveway will be resurfaced with pervious pavers. Mr. Bouchard stated if they take out 255 sq. ft. from the driveway, they can take it down to 42.5%, which is less than the existing and can take a credit for it. There are no negative impacts to the proposal. The old deck didn't open well. It will be a lot quieter for the neighbors as the new deck will be in the rear of the house.

Board member Berger inquired if the basement will have fireproof windows that are required.

Mr. Bouchard's response was yes.

Board member Smith inquired if the side yard variance can be taken back into conformity.

Mr. Capizzi stated they are not seeking a side yard variance.

Mr. Smith stated according to the code and the building department, a variance will be required for the minimum side yard setback. If they took into consideration what could be done to get it back to conformity.

Mr. Bouchard stated it is existing already and they are not changing the existing. The addition on the one side and the deck will be recessed. They will conform but the existing house doesn't.

Board engineer Kong stated part of the confusion is the way the zoning chart reads. The proposal is 7.5 ft., but the existing non-conforming is 6.1 ft. and 6.8 ft. The chart reads like it's going to conform but really is not. The chart needs to be revised. Mr. Kong stated the stormwater needs a test pit and he needs to see the details for the pavers. The standard can be provided from the town.

Questions from resident within 200' and beyond:

Barry Doll, 97 Highgate Terrace, stated that are a lot of impervious materials being put down first and then the pervious pavers. He inquired if the foundation is going to be impervious or pervious.

Mr. Bouchard stated it is going to be pervious.

Motion to Approve Application with Variances Sought, Pending Chart Changes, Compliance with Water Retention Recommendations from Board Engineer

Motion By: Mrs. Berger

Second By: Mr. Bergman

All ayes. None opposed.

A five minute recess was taken at 8:31pm.

MOTION TO ADJOURN MEETING

Motion By: Mr. Bergman

Second By: Chairman Stein

All ayes. None opposed.

Meeting was adjourned at 10:20 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk
Zoning Board of Adjustment