

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA WEBEX
May 4, 2020**

Chairman Shimmy Stein called the meeting to order at 8:05 P.M.

Chairman Stein thanked Hilda Tavitian for working overtime for setting up the webex meeting. Mr. Stein also thanked the borough administrator and the Mayor and Council for working with him on the meeting.

Board member John Smith stated that Hilda Tavitian has been helping him since Friday tremendously. She did a wonderful job.

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 April 27, 2020 Sunshine Notice has been sent to the Record, Star Ledger, and Cablevision, posted on two municipal bulletin boards and the Borough website.

Any board member having a conflict of interest involving any matter to come before the board this evening is reminded they must recuse himself/herself from participating in any discussion on this matter.

Board attorney Ron Mondello stated he has told the Zoning Board members this particular forum is far from perfect. It doesn't completely comply with the municipal land use law. At this point, the DCA is encouraging very strongly meetings go forward as opposed to applications being automatically proved. Mr. Mondello stated there are deficiencies and hopefully, we can work together and get through the applications.

PLEDGE OF ALLEGIANCE

Led by John Smith.

ROLL CALL

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

Absent: Richard Morf and Joel Nunez

Also Present: Ronald Mondello, Esq., Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, and Hilda Tavitian, Board Clerk and Councilman Rafael Marte

APPROVE MINUTES OF PREVIOUS MEETING – March 2, 2020

Motion By: John Smith

Second By: Marc Friedman

All ayes. None opposed.

CORRESPONDENCE

None.

OLD BUSINESS

1. Appointment of Board Engineer

John Smith nominated Pennoni Engineering.

Motion by Sara Berger, second by Joel Berkowitz to appoint Frank Rotonda as board engineer.
6 ayes. 1 nay.

Mr. Mondello stated Mr. Frank Rotonda will be the board engineer until December 31, 2020.

2. Applications Carried Over from Previous Months:

1. 104 Highgate Terrace LLC
104 Highgate Terrace
Construct an addition to single-family dwelling.

Mr. Stein stated this application was carried over from the February meeting.

Mr. Mondello inquired if the applicant has re-noticed and put information in respect to this meeting the notice in the newspaper and to residents within 200 feet. Proof was received that the applicant has re-noticed residents within 200 feet and published notice in the newspaper.

The board clerk, Hilda Tavitian, confirmed she received the proof of letters sent to residents within 200 feet and notice was published in the newspaper.

Mr. Jordan Rosenberg, licensed architect, stated he took the comments and opinions of the board members from the meeting in February and has taken them into consideration. The side yard setback was improved on the left side. It was 5 ft. before and has been adjusted to 7.5 ft., per the board's suggestion. They are still maintaining 5 ft. on the right side as the existing house is 5 ft. At the last meeting, there was a large lot coverage of 35.5% which has been reduced to 33.9%. If pavers don't count in lot coverage, they are within the 35% allowable lot coverage. They are planning to alleviate runoff by implementing pervious pavers. They have made the house skinnier, decreased the lot coverage, and improved the side yard setback.

Board member Wenger stated he has been supportive of the application since the first time it was heard.

Board member Friedman thanked Mr. Rosenberg for listening to comments made from the zoning board members at the March meeting.

Board member Steinel asked Mr. Mondello how the pavers are being calculated today. The application was received in February. The council approved the paver rule last week. Mr. Steinel stated there is only 5 ft. at the entrance landing and only leaves a foot and a half of walking space along the side the of the

house. He inquired if there really is a need for the side entrance. There will only be a 2 ft. path between the porch and the property line. It's an open space and is a way to get to the side of the house. Mr. Mondello stated the Mayor and council only introduced the ordinance and still have not approved it. There is still a second round to go. It is not law tonight.

Mr. Rosenberg stated the rationale is that they increased the side yard setback to 7.5 ft on the left side to allow for someone to go to the backyard since they would be restricted by the landing on the right side. The code requires a minimum 3 ft. landing. The 5 ft. setback is existing today.

Chairman Stein stated he is uncomfortable with the 5 ft. setback. Mr. Stein stated they are starting from scratch. Mr. Stein stated he walks in that area every day and there is no space between those houses. Mr. Stein stated they can go back and there is no need to come out that far.

Board member Berkowitz stated he saw the same thing as Charlie Steinel and agrees with both Charlie Steinel and Shimmy Stein. He wouldn't want to see his neighbors that close and would like the applicant to make changes.

Board member Berger stated she is in agreement with all the board members. If they are changing the plans, they can make it conform.

Mr. Stein stated 7.5 ft. is what is required by law.

Mr. Rosenberg stated he is concerned about reducing the width of the house even more. The family room is already 12.5 ft. wide and the kitchen is 12 ft. wide. Mr. Rosenberg stated he doesn't know where to take it from. It might be beyond the threshold of comfort.

Board member Smith stated back in the February meeting, he had raised questions about the taxes. At that meeting, Mr. Mondello had stated there was no legal basis an application could not be heard if taxes are not paid. Mr. Smith referred to 14-2.2, paragraph 3 on page 294 in the zoning land use law manual and stated it was different than what Mr. Mondello had said. Mr. Smith stated in the next paragraph, it states what a corporation has to do. Mr. Becher had stated his company is a corporation. There are certain things he has to supply with which he has not received. This application was supposed to be heard at the March meeting. The board members were told that the applicant requested to move his hearing to April. Mr. Smith explained since it was the applicant's request, the time restraint when the application needs to be heard doesn't apply because the applicant changed the time frame. Mr. Smith stated it is always the same issue about the side yard setback variance with the applicant. Mr. Smith stated he is concerned about the staircase on the right side and the egress. The burden of proof is on the applicant and so far there has not been any positive criteria to approve the application.

Mr. Rosenberg stated the municipal land use law says hardship, in terms of lot size, lot shape and lot width, variance relief is warranted. There is a restricted 50 ft. wide lot and are dealing with a hardship. The lot is already 10 ft. de minimus and the rooms are being constricted. The lot existed before it was bought and they would like to make the best out of the situation.

Mr. Friedman stated he is troubled with Mr. Rosenberg stating that the application is a hardship by reason of the dimensions of the property. He walked the street also and to him it seemed there was a single-family dwelling there for many years. When he looks back at section 57C-1, it mentions

exceptional narrowness and shallowness that it makes it really difficult to build, he has difficulty understanding why Mr. Rosenberg is claiming it as a hardship today. It wasn't a hardship for the people that lived there for many, many years. The property didn't change. The only thing that changes is the dimensions Mr. Rosenberg wants to put on this building.

Mr. Rosenberg stated the standard of living has changed. Mr. Rosenberg stated they are being subjected to R-6 zoning, even though they are in a R-5 zone because they have 6,000 sq. ft. It is causing them to meet a minimum lot width of 60 ft. Variance relief is warranted under the municipal land use law.

Mr. Smith stated they are building an oversized house on an undersized lot. He doesn't agree it is a hardship. There won't be a problem if they build within the lot size. The other board members mentioned that the houses are being built too close together. Mr. Smith inquired what the positive and the negative criteria are.

Mr. Rosenberg asked Mr. Mondello if he needs to prove a negative criteria versus positive criteria since it is a C2 variance instead of C1 variance or is it just about showing burden of proof for a hardship. In regards to the positive criteria, they are improving the overall cosmetic appeal and look of the neighborhood by providing a brand, new house, it melts with the upcoming neighboring, and is not out of shape and character from the other houses on the block. Another positive criteria is there won't any additional burden of runoff with the seepage pit. Mr. Rosenberg stated if a house doesn't require any variances, it often does not require seepage pits.

Mr. Mondello stated a C2 variance always requires the applicant to prove the positive and discuss the negative criteria.

Mr. Stein stated seepage pits are needed no matter what for runoff.

Board engineer Frank Rotonda stated the biggest issue is the projection into the side yard. It looks like if the stairs are removed, the only thing lost is the doorway to the mudroom. Perhaps, if the staircase was removed, it would address some of the board members' comments.

Mr. Rosenberg stated they would be happy to remove the side landing and the mudroom door.

Comments from residents within 200 feet:

Barry Doll, 97 Highgate Terrace, inquired if the backyard is going to be raised like the house was at 91 Highgate Terrace. The applicant raised the level of the house by 3 feet. He brought all the dirt in and put wood down. Mr. Doll stated he couldn't read the plans on his computer. He is concerned about runoff and the entire change of the look of the neighborhood.

Mr. Rosenberg stated they are not raising the grade.

Mr. Rotonda stated the plans show the existing grade will remain the same.

Scott Chudnoff, 100 Highgate Terrace, stated he is the neighbor next door on the side they are asking for a variance. He is concerned that as the houses get closer and closer to the property line, the house is going to be much larger than the house that is already there. The house is going to change the entire

look and feel of what the block is. He would like to have some distance with his neighbors. He would prefer the other house not to be so close to his.

Mr. Friedman inquired of Mr. Chudnoff how he felt if the applicant agreed to eliminate the door to the mudroom and the landing. There would be 5 ft. to the existing pre-condition.

Mr. Chudnoff stated he still would have concerns because there is going to be a massive wall next to his property and will not have any privacy.

Mr. Mondello stated if any of the board members decide to get up and walk away from the computer, they would either need to take a break if he/she can't hear or just let everyone know that he/she is able to hear. Mr. Mondello stated they need to make sure if a board member walks away, they are able to hear.

Mr. Stein asked if there is any way Mr. Rosenberg would consider going back. Mr. Stein stated they will go ahead with the vote, but it is not a smooth one.

Mr. Rosenberg stated he would like to ask the board if they would agree and compromise to having 6.5 ft. on both sides of the house.

Mr. Stein stated there are two more variances being requested. The next variance is lot coverage. Lot coverage is almost 34% and almost 50% on improved lot coverage.

Mr. Rosenberg stated based on what was discussed at beginning of meeting, an improved lot coverage variance is not needed because the impervious paver hasn't become law yet.

Mr. Stein stated they are counting pavers. There is a coverage issue.

Mr. Mondello stated that the board has been instructed that the board has been dealing with the pavers incorrectly. There is going to be an ordinance passed this month.

Ms. Berger stated she doesn't have a problem with the improved lot coverage.

Mr. Stein stated the pavers have to be certified every five years as pervious. It is the obligation of the homeowner to have them fixed. Mike Ravenda has been very strict about the pavers.

Mr. Smith stated he had given out pictures a meeting ago of a house the board approved. They went ahead and paved the whole yard and part of the front yard. He is very wary about the lot coverage used with pavers. Mr. Smith inquired if this variance is granted, does the new ordinance kick in or does the builder go by the old ordinance.

Mr. Mondello stated it's not law. It's the time of the application.

Mr. Wenger stated he is in support of this.

Mr. Rotonda stated the plans do show a seepage pit that is designed to offset the increased runoff from the additional impervious area. They mitigated the increase in runoff.

Comments from residents within 200 feet:

Barry Doll, 97 Highgate Terrace, stated he is concerned about privacy. An adjustment needs to be made. That's the law. The lot coverage is too beneficial for 15% above the allowed coverage. It is changing the look of the neighborhood.

Mr. Mondello requested a 2-3 minute break as Mr. Friedman was no longer at the meeting. There must have been some computer problems. He is a voting member and needs to be present.

At 9:01pm, a recess was taken. Meeting was resumed at 9:05pm.

Scott Chudnoff, 100 Highgate Terrace, stated his biggest concern is the side lot coverage and their ability to get around the side of their house. He would like to see it be what the variance is supposed to be in terms of what the regulations are.

Mr. Stein stated he still feels uncomfortable with 6.5 ft.

Comments from residents beyond 200 ft:

Mary Sullivan, resident, stated she was in agreement that the stairs are too close to the property line and they should adhere to the code.

Mr. Rotonda confirmed that the applicant agreed to remove the staircase on the right side of the building and to have 6.5 ft. on each side. Mr. Rotonda inquired if the applicant is willing to present amended documents in the plans to show the changes.

Mr. Mondello stated the zoning board has always bent over backwards for applicants. At some point, they have to stop playing let's make a deal and vote on the application. Mr. Becher should be asked if he has any comments before the board votes.

Mr. Stein stated he is uncomfortable with the side yard variance. The 1 ft. is not going to make a difference. He can add the space in the back of the house.

Mr. Wenger stated he is fine with 6.5 ft. He's given back a full foot this way. Every inch of space is valuable especially since the quarantine.

Mr. Steinel stated he has a problem with the 6.5 ft. Mr. Steinel stated going to 30 ft height is putting a huge monstrous wall. He has no issues with the coverage and could be dealt with the seepage pit. His problem is with the side yard variance.

Mr. Berkowitz stated he agrees with Mr. Steinel. There is no room on either side.

Mr. Smith stated it is an oversized building on an undersized lot.

Mr. Friedman stated he is in agreement with Mr. Steinel and Mr. Berkowitz. Mr. Friedman stated he expected, based on the prior meeting, they would put something in the back to create a wider pathway on each side of the structure and was surprised not to see it. He is very sympathetic to the neighbor who testified.

Ms. Berger stated she disagrees with the side yard variances but is fine with the coverages.

Mr. Ari Becher, applicant, stated he is trying to work with the board and felt that bringing in the left side to the full 7.5 ft. variance to the left was a big compromise. He will redesign the house to have 7.5 ft. side yard setbacks on both sides. Mr. Becher inquired if the board would allow him to increase the proposed lot coverage and the building coverage and to keep the stairs.

Mr. Smith wanted clarification from Mr. Becher if he was going to submit another set of plans showing 7.5 ft. side yard setbacks. Mr. Smith stated if Mr. Becher increased the lot coverage, there would be more runoff water. Mr. Smith stated he needs to know what Mr. Becher is increasing the lot coverage to.

Mr. Mondello stated Mr. Becher had said in exchange for the 7.5 ft. side yard setbacks on both sides he was asking for additional improved lot coverage and impervious coverage.

Mr. Stein stated they need the calculations.

Mr. Rosenberg stated Mr. Becher is asking for a hypothetical plan that he does not have. If every 1 ft. they reduce the width of the house, it would go back 2 feet. The coverage would remain at 33.9%. The house would be skinnier, longer, and 4.5 ft. deeper in the back.

Mr. Becher stated he is willing to stay with the 33.9%. He is not looking to increase it from what he is proposing right now. The building and improved lot coverage will remain at what is currently proposed. The building height will be kept at a maximum of 30 ft. Shimmy and the other board members had stated he should back further and narrower to maintain the 7.5 ft. side yard setback. 2.5 ft. would be shaven off on the right and passing out 4 ft. in the back.

Mr. Steinel stated he would like to see a plan to vote on. He would not have a problem if there was a revised plan and a report from Mr. Rotonda prior to voting on it. Mr. Steinel suggested holding it until next month and not to vote on it now. Mr. Steinel stated he would like to see what he is voting on.

Mr. Stein stated he can be limited to percentage.

Mr. Mondello stated it does make sense. If the board is going to send the applicant back for a second or third time to revise the plans, they better be thinking along the lines of approving it.

Mr. Smith stated he submitted revised plans without incorporating the changes as was suggested by the board at the first meeting in February. He then requested not to be heard until the April meeting. It was supposed to be heard in the March meeting. Mr. Smith stated he agrees with Mr. Steinel because he doesn't know what is going to be proposed. The board should be listening to what the neighbors are saying.

Mr. Stein proposed the board can have another meeting in two weeks just to hear this application. Mr. Stein stated the meeting will be on Wednesday, May 13, 2020 at 8:00pm.

Mr. Rosenberg stated he can provide the revised plans in one week.

Mr. Mondello stated as long as it is just this application, everyone present will be told the application is being carried to May 13th. It would have to be published in the newspaper.

Mr. Smith stated the borough attorney had said that by law, notification has to be given even to the people that were present at the meeting.

Mr. Mondello stated Mr. Schettino was referring to not having a meeting at all. You can't just put something on the website or something on the front door of the municipal building saying it's been carried to a March, April, or May meeting and say it's been noticed. Presumably, everyone who is interested in this application is on this call. Mr. Mondello stated the residents within 200 feet do not have to be re-noticed. The notice of the special meeting has to be published in the newspaper. The applicant would not have to notice residents within 200 feet.

Mr. Mondello told Mr. Becher consent is needed to carry this and to extend to any time the board needs to hear the application on May 13, 2020.

Mr. Becher gave his consent.

Board clerk Hilda Tavitian stated the link to access the May 13th special meeting will be posted on the borough website as this meeting was. The telephone number to call in will be provided on the borough website also.

2. Zenon Kopec
514 S. Prospect Avenue
Addition to Single-Family Dwelling

The applicant published in the newspaper and sent certified letters to residents within 200 ft., providing the information on how to access the meeting.

Mr. Smith explained that in the March minutes it is stated that Mr. Steinel made a motion to ask Hilda to contact the building department for clarification with this application. Mr. Smith inquired if Hilda got clarification from the building department why this was kicked back. The application was supposed to be an addition/remodel and now there is only a foundation.

Board clerk Hilda Tavitian stated the permits were originally issued by one building official and when a different building official went to inspect the construction, he stated that variances were required. Michael Ravenda wrote a new denial letter that was included with the revised plans.

Natalie Migliore, 33 Upper Saddle River Rd, NJ, stated she works for the applicant. Ms. Migliore stated on December 23, 2019 they received approval for constructing the house, including the zoning. The permits were issued on January 29, 2020. The proposed application was in compliance at the time. The lot coverage required was 40% and the pavers were not being accounted for. On February 11, 2020 when the foundation was already up, they received a letter stating the coverage was changed from 40% to 45% and pavers were being counted.

Zenon Kopec, applicant, stated he had submitted the application and had received all required permits to begin construction. The inspector came to inspect the job and he stopped the job when he was told he needed variance.

Mr. Stein inquired why the foundation was already built before getting approval from the zoning board. Mr. Stein stated the board was counting the pavers incorrectly over the years. The pavers were never counted as 0. The new count is not in effect until the Mayor and council approve it.

Ms. Migliore stated a zoning variance was not required when they started the construction work. It was after the foundation was in place that they received the letter and found out they needed variance.

Mr. Kopec stated he is building a single-family house. He is asking for 3.7% more than the required lot coverage. The improved lot coverage is 40% and he is asking for 51.22%. He will be adding a seepage pit.

Mr. Mondello stated the board members want to get an idea of why the applicant needs the variance.

Ms. Berger stated it's the same issue as last time. It's a big house on a small lot.

Mr. Friedman inquired what they are going to do if the variance is denied since the foundation is already built. Mr. Friedman inquired if it is feasible to change the foundation so that it's conforming to the 35%, 40%, so forth, if the variance is denied. Is it feasible to change one portion of the foundation to comply or would it have to do with more than just the back side?

Ms. Migliore stated they will deal with it when the time comes. She stated that this is being implemented retroactively. Ms. Migliore explained that the need for variance was not the case when the application was approved. They would not have proceeded in building the house if their application was denied. Ms. Migliore stated it would be too much of a loss to go back and excavate the foundation. It would require demolition, excavation, and then build a foundation again. It would be a financial loss. They have already lost two buyers on the home due to complications with the variance.

Mr. Smith stated the original application was for an addition. Mr. Smith asked Mr. Kopec what the difference is between an addition and a new house. Mr. Smith asked where the original house is. Mr. Smith stated an addition is adding on to the existing house. It is not an addition by leaving one foot of a wall. The whole house was knocked down. The ordinances were not followed. Mr. Smith stated Mr. Kopec knew what he was getting himself into when he bought the house. Mr. Smith stated he saw a hole in the ground when he went to look at the house. He sees a new house going up, not an addition. The wall Mr. Kopec mentioned is really below the ground. Mr. Smith stated Mr. Kopec has not proved to him any hardship. Mr. Smith inquired if they looked at the borough ordinances as far as lot coverage when they applied for the permits. The required lot coverage is 30% and they are proposing 35.70%. The building department made a mistake and so did the applicant. Mr. Smith stated he has a problem with the side yard. He came up with different measurements.

Mr. Kopec stated it is an addition because the left side of the house and half of the front wall is still existing.

Ms. Migliore stated the majority of the foundation is part of the existing foundation with the exception of the back. There was only one cinder block added on top. Ms. Migliore stated they did everything in accordance to the permit. The demolition was done as per plan. All of the demolition is marked on the plan. They had two buyers on the house and due to the construction lost them. They are now in the fifth month of doing nothing but someone has to pay for the property in taxes and loans. There may be no profit but may become a loss. Yes, they looked at the borough ordinances.

Mr. Stein stated there was a mix up in the building department. The only variance is coverage.

Mr. Wenger stated he agrees with the applicant. There is better hardship than following stamped approvals from town, investing money into something the town told you to do, and then being told to rip it out because the town screwed up. It is a big hardship and given that they have been doing it wrong for years, he doesn't see any negative in granting the variance.

Mr. Steinel inquired if the applicant filed an appeal with the construction board of appeal for what went on with the building department. Mr. Steinel inquired if 51% is lot coverage. They only 5 ft. side yard setbacks on the property. There is a window well from the basement that is taking up 2 ft. That is a lot of coverage the applicant is looking for.

Ms. Migliore's response was no. They were just trying to find a solution. The side yard setback is 5ft. because it is part of the existing foundation. They did not move the side of the house. It's an addition to an existing foundation. There was one new cinder block added to the existing foundation.

Mr. Stein stated only the left side is existing. The right side has the garage and it's a new foundation. The back and the right side is a new foundation. The whole right side where the garage is is brand new.

Mr. Rotonda stated the zoning officer issued approval and then he rescinded the approval. He had asked the applicant to rectify the difference between the zoning officer's denial and the plan itself which they did. Mr. Rotonda stated he can't tell the board how to vote regarding the variance but can tell the applicant did not deviate from the instructions given by the zoning officer. The financial hardship is not a reason that can be considered by the zoning board. There are many reasons that can be considered. The plans conform with what the zoning officer said. It would be up to the board to grant the relief.

Mr. Mondello stated a land use attorney would have advised them to appeal it. It would be a waste to dig up the foundation. Mr. Mondello stated that doesn't affect the way the board should view the variance. The positive and negative criteria should be weighed in determining to grant the variance. Mr. Mondello stated that Mr. Ravenda is not in the position to give legal advice. Mr. Mondello stated the applicant did everything according to their plans which were approved by a government official.

Ms. Migliore stated Mr. Kopec was instructed by Mr. Ravenda to go for variance and was told the variance would be approved. Mr. Ravenda stated he interpreted the ordinances differently than the previous inspector. Mr. Kopec got caught in between the two inspectors.

Mr. Wenger asked Mr. Mondello if they were still applying 50%, the variances would still be negligible.

Mr. Berkowitz inquired if the board can consider the fact that this was meant to be a renovation and in reality, it is a new building. There is so little of the old structure left.

Comments from residents within 200 feet:

None.

Comments from any residents:

Barry Doll, 97 Highgate Terrace, stated they need to know why the building department gave the applicant the permits and then another member of the building department rescinded it.

Mr. Stein stated there was an error. The calculations were done wrong. Mr. Stein stated he spoke with the building department. The had a legitimate permit. The applicant didn't know it was wrong. The work was done before the error was discovered.

Isadore Rosen, 504 S. Prospect Avenue, stated there is an issue of equitable estoppel. The board is put in a tough position if they don't grant the permit. As a neighbor, two doors away, the last thing he wants to see is an eyesore. Mr. Rosen explained the eyesore is a negative for the street and neighborhood. There are other properties by other builders that have remained dormant. Mr. Rosen stated the applicant has already lost two buyers which is sufficient hardship. The board should think carefully. There was a mistake made. There was no fraud. The board should grant the permit.

Mr. Rotonda stated the board is acting properly in accordance with the time of decision rule. They are in conformance with laws of the Borough of Bergenfield. Mr. Rotonda stated the applicant has agreed to install seepage pit which would offset the effect of increase in pervious coverage.

Mr. Mondello inquired if the applicant will be installing seepage pits.

Mr. Smith commented that the applicant is putting in concrete slabs. Mr. Smith inquired if they can change that and use pavers instead. Mr. Smith inquired if the applicant would still need lot coverage variance if the concrete slabs were removed.

Mr. Kopec stated the concrete slabs were already removed. Everything is pavers.

Mr. Rotonda stated this plan has less impervious than the previous plan.

Motion to Approve Application As Is

Motion By: Amnon Wenger

Second By: Marc Friedman

All ayes. None opposed.

3. SkyZone Trampoline Park
450 S. Washington Avenue
Application for Change of Use

Chris Murphy, attorney for applicant, stated he published notice in newspaper and sent letters to residents within 200 feet in accordance to the municipal land use law. They are seeking preliminary and final site plan approval along with D1 use variance and certain C variances for property located at 450 S. Washington Avenue. It is for a SkyZone trampoline park.

Mr. Stein stated the biggest concern is traffic. Mr. Stein stated turning left into the parking lot is an issue.

Elizabeth Dolan, licensed traffic engineer, 181 West High Street, stated the county has jurisdiction and they still have to go through the process. Ms. Dolan stated SkyZone is busiest when the street traffic quiets down. They are open six days a week, Friday and Saturday evenings, and Sunday midday to 6-

8pm. They are busiest Friday and Saturday evenings. A typical capacity is 150-200 people. There are approximately 40 vehicles entering and existing during the peak evening hours which is not considered to be significant. It is a good use in terms of noncoincident activity on the driveway. There are 100 spaces on site and the requirement is 83 spaces. SkyZone will not be generating volume when the streets are busiest in the area. Ms. Dolan stated she does not have any data on the park in Hackensack. She has data about the one in Middlesex county.

Mr. Berkowitz inquired if Ms. Dolan took into account that the area is mostly Jewish people, who might be using the services more on a Sunday. There would be more traffic on a Sunday than expected.

Ms. Dolan stated they did not do any specific counts or analysis. The county may have some counts. SkyZone isn't typically as busy on a Sunday as it on a Friday and Saturday night. Parties are associated with the kids already there. It is usually people moving from one venue to the other in the building. The parties are geared towards the kids.

Mr. Smith stated a traffic study was done based on other areas. The study doesn't apply because the time the study was done. Traffic is busiest from 4-7pm on Washington Avenue between Newbridge Rd and Liberty Rd. Mr. Smith inquired if anyone actually went out there and looked at the traffic. The applicant for Taco Bell did the same thing. They used a traffic study from other areas. The county required there be no left turns into or out of places. The traffic study is really inaccurate for this location. A survey of the actual grounds should be taken. Mr. Smith stated you can't make a left hand anywhere on Washington Avenue without causing an accident. Traffic doesn't ease up until 11am in the summer when there's summer camp. A traffic study needs to be done in person. Bergenfield traffic is bad between 4-8pm. The county required to put something there preventing people from making left hand turns. The board engineer said the same thing about the stop sign.

Mr. Rotonda stated the traffic study is accurate. He agrees with Mr. Smith and requested the traffic engineer to provide the board a gap study/analysis demonstrating the availability of left-hand movements at the proposed intersections. Mr. Rotonda stated that this is an older site and the traffic conditions might have changed over the years.

Mr. Murphy inquired if they can ask the applicant if they can agree not to allow left hand turns. Mr. Murphy stated they will look into the issue with making left-hand turns.

Ms. Dolan stated they can put flexible bollards along the side to physically restrict people from making left-hand turns.

Mr. Stein stated his only objection is the turning.

Mr. Rotonda stated the health pandemic has changed the traffic patterns temporarily. If the applicant feels they can operate the site with a no left-hand turn movement, it would alleviate the left-hand turn concern.

Ms. Dolan stated she would like the applicant to confirm that there will be no left-hand turn made in or out of the building. This is a typical concern for a busy roadway.

Ms. Preethi is in agreement to not have a left-hand turn.

Mr. Steinel stated Newbridge Rd would have to be the same way.

Mr. Mondello inquired if any of the board members need to hear from any of the other witnesses. If the response is no, then the public could make comments. Mr. Mondello requested there be five minutes of testimony from Mr. McDonough, the planner.

Mr. Stein stated he has no other issues and that he is familiar with this type of place.

John McDonough, licensed NJ planner, 101 Gibraltar Drive, Parsippany, NJ, stated they are in a B2 zone that allows parks, public parks, social clubs, bowling alleys, and billiard halls. It's somewhat of a new use. A trampoline park does not fall under the umbrella of parks. It promotes public welfare, fitness, and fun. There will be landscaping, pavement, and new improvements made to the land. It will put unused commercial land back into functional use. It complies with the master plan. It will provide for a variety of uses applying to all age groups. There will be efficient use of the land.

Mr. Stein stated it's not just use variance being sought, there's also side yard and lot coverage variance that is necessary.

Mr. McDonough stated the side yard relief is for 10.35 ft. as 15ft. is what is required. There is a combined side yard as well. It is a textbook C1 hardship variance. The lot coverage is 85.35% where 65% is the maximum that's allowed. Mr. McDonough stated that even though the applicant is not making the impervious coverage worse, it's only what's there now. It's introducing more landscaping to the property. The site is being made greener.

Mr. Rotonda stated the site has been developed for many years. They are reusing the old Sears for an improvement. They are not worsening or improving the drainage situation.

Comments from residents within 200 feet:

Mike DiBello, DiBello Music, stated this a great project for the site and fits in with the neighborhood. It should be a go. The traffic issue shouldn't be a problem at all. It would be suicide trying to make a left turn. It will work itself out.

Comments from any residents:

No one came forward.

Motion to Approve Application Provided there are No Left-Hand Turns from Washington Ave & Newbridge Rd

Motion By: Shimmy Stein

Second By: John Smith

All ayes. None opposed.

PUBLIC COMMENTS ON ANYTHING NOT ON AGENDA

Mary Sullivan, asked if a hiatus can be put on new applications until in-person meetings can be held. Residents can not safely review the plans in the building department because of the social distancing

and residents rely on items presented at the meeting. Ms. Sullivan stated reading the plans on the computer are virtually impossible.

Mr. Stein stated it is not the board's call to make that decision. He will call the building department tomorrow and tell them her suggestion.

Mr. Wenger stated the longer you wait, you risk the application being granted.

Barry Doll, resident, inquired if a builder is allowed to raise the level of the backyard by 3 feet.

Mr. Stein stated that is not for the zoning board to say.

Mr. Rotonda stated the building code requires changes in grade of more than 4 feet to be approved by an engineer.

3. Resolutions:

1. Jordan Silvestri – 58 Sussex Rd – Addition of Two Floors

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

2. Cesar & Bernadette Abella – 79 Lilac Street – Addition to Single-Family Dwelling

Motion By: Sara Berger
Second By: Marc Friedman
All ayes. None opposed.

MOTION TO ADJOURN MEETING

Motion By: Charles Steinel
Second By: Shimmy Stein
All ayes. None opposed.

Meeting was adjourned at 11:03 pm.

Respectfully Submitted,

Hilda Tavitian, Zoning Board Clerk