

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
November 18, 2020**

Chairman Shimmy Stein called the meeting to order at 7:00 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 public notice bulletin boards and published on the borough website. Notice of this meeting via the November 10, 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.

PLEDGE OF ALLEGIANCE

Led by John Smith.

INTRODUCTORY STATEMENT

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. 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 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 Act. 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, we must grant the requested variance.

ROLL CALL

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

Also Present: Ronald Mondello, Esq., Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, Asher Forst, Moderator, and Hilda Tavitian, Board Clerk

Absent: Charles Steinel

APPROVE MINUTES OF PREVIOUS MEETING – November 2, 2020

Motion By: John Smith

Second By: Amnon Wenger

All ayes. None opposed.

CORRESPONDENCE

Board Chairman Stein explained the rules for the meeting. He stated he will shortly ask if anyone has any comments for items that are not on the agenda. The only thing on the agenda is 145 West Main Street. Mr. Stein stated any comment made can not be about 145 West Main Street.

The attorney for the applicant, 145 West Main Street, will call professional witnesses, like a planner and engineer, to provide testimony on the application. Mr. Stein explained when the testimony is concluded the board members will ask them questions. When the board and the board's professionals are finished asking questions, the meeting will be opened first to residents within 200 feet of the property for questions only of the applicant's professionals and then to any residents. This is not the time for comment. There will be time at the end of the applicant's presentation for comment. There is no need to ask a question again if it has already been asked. Mr. Stein stated everyone will be heard tonight with different points. He is required to cut someone off if the same question is asked over and over. If a person has a question for the applicant's professional, they need to use the icon on Zoom showing a hand that they click on to raise it. The moderator will call on you in the order the hand was raised. Once the moderator calls on you, you will have to unmute yourself and turn on the video in order to ask your question. Please wait for the professional to answer your question. If attending by telephone, press *9 to raise your hand. Mr. Stein stated they will probably not be done with the application tonight and there will be a second meeting.

OLD BUSINESS

1. 145 West Main Street, LLC
145 West Main Street
Change of use to a multi-family dwelling R-5 zone to RM zone

Matthew Capizzi, 11 Hillside Ave, Tenafly, attorney for applicant, stated the project concerns a redevelopment of three pieces of property located at 145 West Main Street and North Franklin Ave. There are 3 lots that were created by a subdivision in 2014. They are seeking to combine the 3 lots and develop them with a 16 unit apartment building and 25 parking spaces. It will consist of two floors of apartment units and one floor of surface parking. They had presented the application to the advisory site plan committee in February, 2020 with a different plan set. Mr. Capizzi stated they had taken comments from the site plan committee and modified the project to what is seen here. The project proposed is ingress and egress from one drive aisle off of West Main Street. There is no access onto N. Franklin Avenue. There were other modifications made to plan set, such as reduction of the building, changing of the circulation of the parking lot. They have been reflected in the plans and were posted on the borough website. Mr. Capizzi stated they need a use variance, bulk variances, and a parking variance. They are providing 25 parking spaces where 30 is required.

Michael Hubschman, licensed engineer and planner, 263 S. Washington Avenue, Bergenfield, stated he prepared the plans and visited the site numerous times. He is familiar with the site and the surrounding area. Mr. Hubschman stated the site plan shared on the screen consists of 6 sheets that is dated 5/1/20. The lot consists of 3 50 ft. wide lots that were subdivided a few years ago. It presently consists of a single-family house, a garage, and a driveway off of N. Franklin Ave. There is some paving in the rear yard. It slopes from left to right (west to east), approximately about 8 ft. There is frontage on W. Main St. and N. Franklin Avenue. Mr. Hubschman stated on the front side, there's a 12 ½ ft. sanitary easement that runs along the eastern property line that is a Borough of Bergenfield sanitary sewer. The lots are

located in the R5 zone. The school is to the left of the property. N. Franklin Ave is a one-way street going south partially during the day and W. Main Street is a county road. There's a mixed use in the area with some commercial uses and single-family homes. The building coverage is approximately 43%, where the R5 zone allows 40%. They are proposing 25 parking spaces with 5 under the building and the remainder are around the perimeter. There are 16 units proposed with 12 one bedroom apartments and 4 two bedroom apartments. Mr. Hubschman explained the original plan had an exit driveway out of N. Franklin Ave but they deleted that after meeting with the site plan committee. The whole plan was revised to show the ingress and egress on W. Main Street to be as far from the intersection as they can make it. There is a clearance of 96 inches (sufficient height for an ambulance) when driving under the building which is the requirement for a handicapped van to be able to get underneath there. There is a front sidewalk proposed that goes to the lobby. There is a trash room inside where all trash is stored and wheeled out to the sidewalk on trash day. The 20 parking spaces would be for the residents and 5 parking spaces for guest parking. The drive aisles are standard, 24 ft. drive aisle, 18 ft. parking stall, and 9 ft. wide spaces. The ADA spaces have to be 16 ft. N. Franklin Ave has a front yard as well as W. Main Street. The yard opposite W. Main is the rear yard and the yard on the easterly side is the side yard, where the R-zone requires 5 ft. and they are at 15 ft. on the right side. Municipal service will be used for the pick up of the garbage. The pails will be brought to the curb. The stalls are 9 x 18 ft. which is the RSIS standard for parking stalls.

Mr. Hubschman stated the lighting plan shows there is lighting around the perimeter and ceiling lights under the building. There are arborvitae plantings proposed that are up to 7-8 ft. high on the right side. There's already a fence on the right side. They are proposing a 4 ft. PVC fence on the east side along the property line, a 6 ft. PVC fence along the rear, and a 4 ft. PVC fence on the west side that tapers down to the end of the building. There will be three trees and foundation plantings in the front on the street. There is a little part of the driveway that drains toward the street. Most of the site and all of the roof liters drain towards a retention system in the rear. There will be no runoff to the neighbor's property in the proposal. There's a 2 ½ inch orifice that meters the water down and trickles out the borough system. Mr. Hubschman stated they were asked by the site plan committee not to connect to the town's sanitary system line because there are some problems with that line. They are showing a new sanitary connection to the street. The sprinkler room in the southwest corner of the building and the fire connection will be somewhere in that area. There is no exit out onto N. Franklin Avenue. Most of the parking is shielded from N. Franklin Avenue and W. Main Street. Mr. Hubschman stated a maximum height of 30 ft. is permitted and they are proposing 32.99 ft. based on the existing grades around the building. The conforming setbacks on W. Main Street proposed are 22.9 ft. where 15 ft. is required. The setback on N. Franklin Ave is 15.3 ft, where the required is 25 ft. The building is sunken down and there is no exit on that side. The rear yard setback is 20 ft., where the required is 25 ft. There is no spillage of lighting. The majority of the lighting is on the ceiling above the parking spaces. Mr. Hubschman stated they are required to have a reduction of 80% in drainage. The system does reduce the runoff and all runoff is contained on the site. There is adequate site distances.

Board engineer Rotonda stated he noticed the plan was changed from the plan that was presented to the site plan committee. He inquired about how many units were proposed and what the building height was at the February 10th, 2020 presentation. Mr. Rotonda inquired if there were any other major changes made. Mr. Rotonda stated he might have some comments on the final plan if the project proceeded. Mr. Rotonda inquired why the number of the units went up when the site plan committee recommended there be fewer units.

Mr. Hubschman stated the proposed building height was 36.4 ft. high and 15 units were proposed. It's now proposed with 1 more unit and a shorter height. There were engineering changes made, like the sewer going into the easement, and more of the architectural changes. It is approved for 3 one family homes. Mr. Hubschman stated it would probably have to be a flat roof because the 4 ft. is in the gable area.

Mr. Capizzi stated they were able to increase the proposed number of parking spaces making it reasonable to propose a additional unit.

Board member Friedman inquired if the use variance is denied, is there any reason the parcels could not be used to build 3 one family homes. Mr. Friedman stated the height is 30 ft. but the plan proposes the height of 32.99 ft. If that variance was denied, is there any way to construct the project having 30 ft. or is it simply not possible for engineering reasons.

Mr. Stein stated it is basically 10% over the height requirement.

Mr. Smith inquired how much of the easement is on the applicant's property. Mr. Smith inquired what the height of the trees that will be planted in the front will be. Mr. Smith stated the trees that will get bigger and thicker blocking the line of sight of vehicles coming out of the driveway.

Mr. Hubschman stated it is a 15 ft. easement and 12 ½ ft. is on the applicant's property. The church property has the other 2 ½ ft. behind the applicant's property. It's shown on the site plan as the sanitary sewer easement. Mr. Hubschman stated the trees will probably be 15-18 feet high. The trees are red oaks, that are nice shade trees and will be on the corner. The trees can be pushed back a little but is not a real concern. There is a 5 ft. grass area where the arborvitae's can be planted. There might have to be an agreement between the owner for being responsible to repair the paving if they ever needed.

Mr. Morf inquired how a row of arborvitae's are going to be planted over a sewer line and how they are going to pave the parking spaces over the easement. Mr. Morf thought paving over an easement could not be done.

Mr. Rotonda stated there could be objections from the town. Mr. Rotonda stated that wasn't one of the items brought up in the site plan committee meeting. The site plan committee doesn't generally dig into the engineering details.

Mr. Stein inquired if the board was to approve the application and the town says you can't plant there, where would leave things.

Mr. Capizzi stated they would have to revisit the terms of the easement on the property to see what the limitations are as far as what improvements can be made in the area. They can maintain a bond relative to any site work done damaging municipal infrastructure. A developer's agreement would be needed for a project of this scale. The paving and revegetation of the area being discussed can be ensured in a developer's agreement.

Mr. Hubschman stated they can have their stalls 16 feet deep and push the building to the left (west) or push the lobby area over.

Mr. Capizzi stated they would have to find some other solution, perhaps a redesign or use grassy pavers for the parking spots to find a middle ground with the municipality.

Mr. Stein stated they have two weeks to look at the easement and make clarifications.

Mr. Rotonda stated he could speak with Mr. Hubschman to assist with clarifying what would be allowed with the easement. The drainage system that goes right next to the sewer is a greater concern along with the tree roots.

Mr. Morf stated shifting the building to the left is going to further aggravate the side yard variance on the left. You need 25 ft. and you only have 15 ft.

Mr. Hubschman stated they will see what their options are and meet with the DPW and Frank to discuss how to proceed.

Mr. Nunez inquired whether the area is in a flood zone area.

Mr. Hubschman stated they are outside of the flood zone area. Mr. Hubschman stated they have to work with the fire department for the fire connection as a fire connection on the building was needed. It would probably be located in the southwest corner. It is shown the fire water going into the sprinkler room. There are 20 parking spaces in the rear and under the building for the residents and five spaces would be allocated for guest parking to the right of the easement, on the east side.

Mr. Berkowitz inquired how people from the parking area get to the lobby of the building. He inquired where the hydrant that will be serving the building is. Mr. Berkowitz inquired where the visitors would park. There is a lot of wildlife, geese and ducks that migrate between Coopers Pond and the land being proposed to be built on. Mr. Berkowitz inquired if anybody has considered what that will do to the wildlife.

Mr. Capizzi stated the wildlife is just meandering there because the house is in disrepair and no one is living there. They won't be there once there are people living there.

Questions from residents within 200 feet:

Julie Nuesch, 138 W. Church Street, stated the church property to the east of the house is a certified wildlife habitat, a bird sanctuary, and a monarch way station. The property next door to them also has that designation. There are deer, geese, foxes, and other wildlife that come through the property. Ms. Nuesch inquired if an environmental study was conducted in relationship to the property. She thinks it would have an impact and a study needs to be done.

Mr. Capizzi stated there has been no such designation to this piece of property. Mr. Capizzi stated he does not see any adverse effects to the sanctuary. Mr. Capizzi stated if members of the public want to do that study, they can commission someone to do that but the applicant is not going to.

Michael Casey, 9 S. Franklin Avenue, inquired about the lighting of the dwellings and how many bedrooms will the units have.

Mr. Hubschman stated the architect is going to discuss the floor plans. There are 12 one bedroom units and 4 two bedroom units on two residential floors.

Pastor Nuesch, South Presbyterian Church, inquired about the number of trees that will be cut down. He stated he is concerned about the wildlife.

Mr. Hubschman stated 15 trees are going to be cut down.

Nelson Reynoso, 14 S. Franklin Avenue, stated according to ordinance 792, no building or retaining wall may be erected nor placed within 20 feet of a central line of any stream or brook. Mr. Reynoso inquired how far is the proposed building from the brook. He inquired if an environmental study was done to determine the impact the building would have located so close to the brook.

Mr. Hubschman stated the brook is 160 ft. to the property approximately. There wasn't an environmental study done. There are 2-3 houses between the property and the brook. If it was in a regulated area, they would have done an assessment.

Abraham Matute, 144 W. Main Street, inquired if the traffic study was done during school time. It shows the driveway of the building being right in front of his and his neighbor's driveway. Mr. Matute inquired if they took that into consideration. It is already hard getting out of his driveway with the kids going to school in the mornings.

Mr. Hubschman stated they are coming out head first out of the driveway. They are partially across from the two driveways. The driveway is a typical 25 ft. wide two way driveway onto a county road.

Bill Flores, 56 Meyns Place, inquired if there are plans to make the building a shelter or a group home. Mr. Meyns inquired if there is a waiting list already of the people that will be living there and how they are selecting people.

Mr. Capizzi stated this will not be a group home. A portion of the units will have to be set aside as affordable housing units as required by the ordinance. There are certain income limits. Mr. Capizzi stated they are required to provide housing units that are regulated by the state of New Jersey. The planner will speak specifically about the two units will have to be affordable units. Mr. Capizzi stated the project needs to be approved first. A third party representative would be hired to select the tenants occupying those two units once the application is approved.

Mr. Mondello stated it is highly regulated.

Mr. Stein stated out of 16 units, only 2 fall under this category. The rest of the units are free market units. There are regulated state laws that mandate this to happen.

Ruben & Yudi Susana, 3 S. Franklin Avenue, stated this property was previously denied for three homes because of safety issues. She inquired why they are attempting to build a three story complex. She stated they do not know how many accidents occur at that corner. Ms. Susana stated her property has been destroyed multiple times and inquired if they have taken that into consideration.

Mr. Mondello stated he doesn't recall an application for three homes for that property being denied. Another applicant would be allowed to build 3 homes on the 3 lots. Mr. Mondello suggested Ms. Susana get in touch with the Bergenfield building department and find out if there was such an application. He knows no one has come before the zoning board.

Mr. Capizzi stated Ms. Susana was referring to an application that was before the site plan committee. There have been no prior applications on this property with the exception of the subdivision application in 2014. The zone permits for 3 houses on the property.

Mr. Stein stated he has been on the board for 21 years and has not seen that.

Janet Rosado, 135 W. Main Street, inquired if there was a study done about the air quality with 25 vehicles proposed to park in the lot. Ms. Rosado stated that is not exactly correct. A one family home would have up to 3 vehicles, not 16. If there are 16 units, at least the minimum would be 16 vehicles. Ms. Rosado stated there is a safety concern since there are a lot of students that walk to Franklin elementary school and to the high school along West Main Street. It is already a very busy area during rush hour and the residents living in the building would be leaving for work at the same time. Ms. Rosado inquired if there was a study done of the extra drainage and how that was going to affect her property.

Mr. Capizzi stated the traffic engineer will talk about trips in and out of the site. There will be similar trips associated with a single family house. The apartment building will not be any more significant than a single family house. Mr. Capizzi stated if she is concerned about noxious fumes generated by cars going in out of the site affecting her being asthmatic, it will not be heightened as a result of the project.

Mr. Mondello stated he agrees with Ms. Rosado. The applicant has not done a study and they are not going to do a study because they are not required.

Mr. Hubschman stated all of the drainage is collected onsite and the runoff is being reduced by curbing it. Mr. Hubschman stated the small amount that exists today would remain. There would be no drainage effect on Ms. Rosado's property.

Mr. Stein stated Mr. Rotonda, board engineer, has to make sure there will be no adverse effect from the water coming off to the other properties. Mr. Stein stated whatever engineering issues there may be will be taken care of.

John See, 140 W. Main Street, inquired if there is a possibility they can change the driveway or the entrance. It is going to be harder for him to get in and out of his driveway.

Rosemarie Socorro-Garcia, 27 S. Franklin Avenue, inquired why the developer is insisting on building a 16 unit building when he knew when he purchased the property that it was allowed for 3 single family homes. Ms. Socorro-Garcia inquired if the developer is open to selling the lots.

Mr. Capizzi stated that is a question that will be answered by the planner. Mr. Capizzi stated the developer's interest is to develop the project. All of the comments will be discussed with the team and will address the comments when they come back.

Mary Sullivan, resident, inquired about the number of parking spaces and the number of vehicles parked there.

Jose Gonzalez, 45 S. Demarest, requested the garbage collection and dumpster be explained. He inquired if a study was done regarding the garbage attracting rats and coachroaches.

Mr. Hubschman stated there is a trash room onsite proposed. It would be pail type storage the town uses for automated garbage truck pick up. The pails would be wheeled out to the curb on garbage days.

Gwen Hill, 12 Sunset Place, inquired who appoints the board members to the zoning board.

Mr. Stein stated they will have the verbal communication portion in a few minutes and that is when Ms. Hill can ask her question. Mr. Stein stated once they are done with Mr. Hubschman's testimony, they will take a 5 minute break, then have verbal communications, and after that continue with the next witness.

Mr. Wenger stated they did not open the meeting to the public to discuss items not on the agenda.

Mr. Smith requested Mr. Rotonda verify the 8 inch sewer line which Mr. Rotonda did verify.

Mr. Friedman inquired if all of the residents will be required to bring their trash and/or recycling to the trash room. Mr. Friedman inquired if there will be 16 trash cans, 1 for each unit. Mr. Friedman inquired how the pails are going to be brought out to the curb. Mr. Friedman confirmed there likely be 4-5 trash containers on the curb twice a week and 4 recycling containers once a week.

Mr. Hubschman stated the room is 25 feet wide. There might be 2-3 recycling, 2-3 for paper, and 3-4 pails for trash. The manager or owner would bring out the garbage. There would probably be 4-5 pails out on the curb a few times a week.

Ms. Susana asked Mr. Stein if he or any family member is associated with this property.

Mr. Stein stated absolutely not. He saw the owner has the same name as him but he does not know who he is.

A five minute recess was taken at 8:38.

Questions from any residents:

Mimi Parente, resided at 144 W. Main Street for 63 years and now lives at 43 El Dorado Drive, Wayne, New Jersey. She inquired if the plantings will be in the west corner and if there will be a 4 foot wall. There is a blind spot at the intersection of N. Franklin and W. Main Street. There was an extensive study done of where the sewer runoff would be. It is an existing problem that is dealt by the town on a continuous basis. A simple rainfall fills at least half capacity causing overflow that lasts days to subside. Ms. Parente stated she can't figure how they are going to put 16 residences with showers, sinks, and toilets. She inquired if they will be putting a new system underneath the structure. The pipes are old and deteriorating. Ms. Parente inquired what material will be used for the parking area. Ms. Parente inquired about the 4 ft. height difference slope from N. Franklin Ave east. She inquired if pervious material will be used.

Mr. Hubschman stated it will be on the east side of the property. The wall is about 3 ½ ft. on that side. Ms. Parente is talking about two different things. The storm sewer will be connected to the 8 inch on W. Main Street because the town's sanitary sewer is old. Mr. Hubschman stated we generate three thousand gallons a day which isn't a big generation for a sanitary sewer. A 8 inch sewer can handle half a million gallons. The sanitary sewer goes to Main Street and the storm sewer will go to the existing storm

sewer on Main Street. Mr. Hubschman stated they are required to reduce the storm flow from the site. Black top, asphalt, will be used for the parking area. Mr. Hubschman explained the property slopes 6-7 feet from west to east. They are proposing regular black top asphalt. Storage pipes will store the water with an orifice that trickles off the site. It is mostly roof runoff. It has a peaked roof with gables.

Marisol Fernandez, 128 N. Prospect Avenue, inquired if the residents or the school will lose any water or water flow during the construction. She inquired if there will be any lights in the parking lot. Ms. Fernandez inquired if a study was done of the overflow on W. Main Street and if done how would they resolve any backage of water.

Mr. Hubschman stated there won't be any loss of water service. Mr. Hubschman stated there won't be any light poles. The lights will be on the building that face down. There was a flood study done and the property is well outside of the flood plane.

Erick Batista, 14 N. Taylor Street, inquired if Mr. Hubschman, as an engineer, sees it to be feasible to try to build a building with 16 properties that is only scheduled for 3 homes.

Mr. Hubschman stated he sees this as a very viable project. The planner will discuss the benefits of the project. The small building is adequate and reasonable from an engineering perspective. It would be too big if it was proposed to be 30 units and 5 stories.

Mr. Capizzi inquired if Mr. Hubschman has worked on apartment projects before and if so how many in the past twenty years. Mr. Capizzi inquired if Mr. Hubschman has worked on apartment projects that had lot areas more than 15,000 sq. ft. and if he has worked on projects with similar density as what is being proposed here.

Mr. Hubschman stated he has worked on 100, not 2, but many. Mr. Hubschman's response was yes to both questions. Some of the projects he has worked on are online and there have been no parking space issues.

Reji Joseph, 26 S. Franklin Avenue, inquired how 20 parking spots can satisfy all 16 families.

Mr. Hubschman stated 1 ½ parking spaces per unit works with smaller projects like this one.

Meg Casper, 69 Meyns Place, stated they will be cutting down 15 trees and only planting 3 new ones and keeping only 2. The trees provide a place for the water to go, shade, ecology, aesthetics, etc. The rule is if you take down a tree, two trees should be planted. There's a big difference in the amount of trees. Arborvitaes are not trees.

Mr. Capizzi stated what Ms. Casper stated about replanting was not accurate.

Mr. Hubschman stated they are including the arborvitaes. They are planting buffer trees, foundation planting, and shade trees. They can add more if the board sees fit. Mr. Hubschman stated he will speak with the engineer to see what can be done about the sanitary easement area.

Mr. Stein suggested Mr. Hubschman return next time with some ideas how more trees can be added. It will be a concerted effort to listen to the residents.

Leonor Santana, 14 N. Taylor Street, asked how Mr. Capizzi would feel if the proposed building was built on his street in front of his house.

Mr. Capizzi stated the planner will address the questions about the appropriateness of the location.

Edward Roman, 55 River Edge Rd, inquired if there was a survey done to determine if the windows are going to be parallel to the school. Mr. Roman expressed concern about residents who would reside in the building looking into the school building at female students. Mr. Roman inquired about the location of windows and how many there would be.

Mr. Hubschman stated the architect will show where the windows are on the sides. The building will be far away from the school. The units face front and back. There are only four corner units that are on the side of the meeting.

Mr. Berkowitz inquired if all the runoff from the building will go into the sewer system and none of it will go into the stream and/or runoff into the pond.

Mr. Hubschman stated it will all go into the storm sewer system of the borough. There is an extensive drainage system onsite that reduces the runoff from the site which is required.

Mr. Friedman stated they are proposing to remove 15 substantial trees. He stated wouldn't the removal of 15 trees from the property in addition to the construction create a water runoff problem if there didn't exist if trees were left in place. Mr. Friedman stated the project is referred to as a low and moderate income project. Mr. Friedman inquired what is considered as low income level.

Mr. Hubschman stated the removal of trees, construction, and the pavement creates more runoff on the site. They mitigate that with the storm sewage system and the piping. The whole site is being funneled down into a 2 ½ inch pipe which meters the water slowly. There is a COAH requirement of having 2 low, moderate income units. All projects are required to have that. The state has standard income levels.

Mr. Capizzi stated any time there is a project proposing five or more units, the municipalities affordable housing requirements kicks in. It requires 15% on a rental project set aside. Bergenfield has requirements for the income levels for the two rental units.

Raj Matthew, 34 Brewster Place, inquired how the traffic is going to be controlled and the sewage system.

Mr. Stein stated that question has already been answered.

Janet Rosado, 135 West Main Street, inquired how much of the building structure would shadow her property and how much privacy would she have. Ms. Rosado inquired how much taller will the building be from her property that is two floors and is it going to overshadow her home. Ms. Rosado inquired if the garbage is going to be in the front of the structure and about the ventilation of the smell the garbage in the summer. Ms. Rosado inquired how far is the structure's driveway from her driveway.

Mr. Hubschman stated that it is the side of the building, where a house could be put at the same exact location. It would be 30 ft. high. There's isn't a big impact between a single family house and the building structure. There are two bedrooms on that side. There's one window on each floor that faces

Ms. Rosado's rear yard. Mr. Hubschman stated the building is 15 ft. away and a house could be 12 ½ feet from the property line. Mr. Hubschman stated the garbage would be in the front of the structure facing West Main Street. The trash room is in the front and would be vented. It is far from Ms. Rosado's property line. The driveway is on the right side of her house. There is 50 ft. between the two driveways.

Mr. Stein stated it is proposed to be 32.99 ft. It is 3 ft. higher than a single family home that could be built.

VERBAL COMMUNICATION

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

Gwen Hill, 12 Sunset Place, inquired who appoints the members of the zoning board. Ms. Hill inquired if the current Mayor is part of the council that appoints the members.

Mr. Stein stated the council appoints members to the zoning board. The Mayor makes appoints to the Planning Board and the council makes appointments to the Zoning Board.

Mary Hernandez, 25 Birch Avenue, inquired how many times can the same developer come back. The council stated last night that they can if they made a substantial difference. She thanked the board members for keeping the concerns of the community in mind.

Mr. Stein stated they come with an application. The board hears every witness from their professionals, developer, neighbors, and the audience. Mr. Stein stated if the board votes in the affirmative, it's done and they build it. If the application is denied, they can not come back with the same application.

Mr. Mondello stated the definition of substantial is left to the courts. He's seen when an applicant came in and was denied, they came back 10 years later with the same application, the judge had found that the area changed so substantially that in fact it was a new application. It's an ambiguous definition.

Jose Gonzalez inquired if any members of the zoning board have requested an environmental study of the area.

Mr. Smith asked if Mr. Capizzi or Mr. Mondello can explain to the audience that the site plan committee that is going before the board as he thinks there's a lot of confusion. Mr. Smith stated they seek the variances when they go to the building department.

Mr. Capizzi stated the proceeding they had before the site plan advisory committee was informal and not a public hearing. Any determination made by that board was not binding and that it is only advisory.

Nelson Reynoso requested to have explained the criteria the board uses to approve a variance in general and what transparency is there in approving variances.

Mr. Stein stated everything done is on public record and there is 100% transparency. You can listen to the meeting, be present at the meeting, and attend a Zoom meeting. Mr. Stein read the introductory statement again. The board listens to the pros and cons, everybody's opinions, and then the board makes a decision based on what they heard.

Mr. Stein stated the application for 145 W. Main Street will be on the next month's agenda first and will let the other applicants know there is a big application before them.

Mr. Mondello stated Mr. Capizzi may ask for the board to go up to 11pm. This is old business and would go first before any residential applications.

Mr. Capizzi stated they are ready to continue this evening and if the board is willing to hear them. He inquired if the board can indulge them and at least hear the testimony of the architect. He appreciates the board's point and inquired if there will be an opportunity to start the December 7th, 2020 meeting at 7pm.

Mr. Stein stated it took them two hours to get to this point with only one professional. He will gladly poll the board. He has no problem starting at 7pm.

Mr. Mondello stated that with the zoom meetings there hasn't been a recurring notice or annual notice. He inquired what kind of notice is there for the December meeting and does it say 8pm.

Ms. Tavitian stated that on the annual notice, the start time for the meetings are 8pm. A sunshine notice can be posted with a change of time for the December meeting.

Mr. Mondello stated the motion is to change the December 7th, 2020 meeting start time from 8:00pm to 7:00pm.

Start Time of December 7, 2020 Meeting at 7:00PM

5 Ayes for start time at 7:00pm and end at 11:00pm.

3 Ayes for start time at 7:00pm and end at 10:00pm.

Mr. Mondello stated this matter will be carried to the December 7th, 2020 meeting, start at 7:00pm and end promptly at 11:00pm. There will be no further notice.

Mr. Friedman inquired if there will be any testimony from the owner.

Mr. Capizzi's response was no. Mr. Capizzi stated he doesn't know how the applicant's testimony would be relevant to the variance application. The planner will speak about that.

Mr. Smith stated he would like to know why the applicant decided to do this project in this area instead of single family homes.

Mr. Mondello stated the applicant does not have to appear.

MOTION TO ADJOURN MEETING

Motion By: John Smith

Second By: Marc Friedman

All ayes. None opposed.

Meeting was adjourned at 9:52 pm.

Respectfully Submitted,

Hilda Tavitian, Zoning Board Clerk