

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
March 1, 2021**

Chairman Shimmy Stein called the meeting to order at 8:01 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 February 22, 2021 Sunshine Notice has been sent to the Record, Star Ledger, and Cablevision, posted on two municipal bulletin boards and the Borough website.

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

Members of the public calling in to the meeting who would like to ask a question or make a comment, can press *9 to raise their hand and *6 to unmute themselves.

PLEDGE OF ALLEGIANCE

Led by Board member Smith.

INTRODUCTORY STATEMENT

Read by Board member Friedman

Welcome to the Zoning Board of Adjustment. Let me briefly explain what we do. We are appointed by the Bergenfield Council to decide when a property owner should get relief from the strict application of the zoning code requirements. 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.

Mr. Friedman state the zoning board doesn't change or modify the zoning requirements. Those are set forth in the municipal ordinance adopted by the borough council. Those requirements can only be changed by the borough council. The zoning board's role is to determine only whether a section of the municipal zoning code should be relaxed for a particular applicant. The board members here take their obligations extremely seriously.

ROLL CALL

Present: Shimmy Stein, Richard Morf, Sara Berger, John Smith, Charles Steinel, Joel Nunez, Amnon Wenger, Marc Friedman, and Jose Morel

Absent:

Also Present: Ron Mondello, Zoning Board Attorney, Frank Rotonda, Zoning Board Engineer, Councilman Marte, Council Liaison, Michael Knowles, Planning Board Liaison, and Hilda Tavitian, Zoning Board Clerk

APPROVE MINUTES OF PREVIOUS MEETING – February 1, 2021 & February 24, 2021

Motion By: John Smith

Second By: Sara Berger

All ayes. None opposed.

CORRESPONDENCE

Board attorney Mondello stated he had received emails from Mr. Gonzalez asking why the board did not accept a letter he had submitted and why is the board not accepting a petition submitted by another resident. Mr. Mondello stated he had explained to him the board was prohibited from accepting those items but welcomed those people who signed the petition to come up to the virtual microphone to either ask questions or comment. Mr. Gonzalez was satisfied with the cases Mr. Mondello had sent him.

Mr. Stein stated he received a letter from Ms. Janet Biggins. Ms. Biggins is welcome to testify but the letter can't be entered into evidence.

VERBAL COMMUNICATION

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

Norman Schmelz, 94 Deerfield Street, stated a lot of times when people are looking at the screen, they only see 6-8 squares up and there are 9 members of the board, plus the attorney, plus the lawyer. Mr. Schmelz inquired if there is a way to see everyone at once. If it was a live meeting, they would be able to see everyone at once. At some points, only five people are seen. Mr. Schmelz stated he sees 16 right now and his computer has the capability to see 16 screens, but it's only when he is a panelist. It is disheartening that the meeting is not at borough hall and the dais where everyone can see what is exactly going on and if people are interacting. There are a lot of forums in town that people think the board members are on their cell phones or are sleeping as they seem to be hiding themselves.

Mr. Mondello stated whatever computer you're using only has a certain capability. His computer has the capability to show 16 at any given time. Mr. Mondello asked Mr. Schmelz if he sees the square of the person speaking, other than the 5-6 people that are on the panel. Mr. Mondello stated he only sees 6-7 people right now because Mr. Smith and Mr. Morf are sitting together. The rest don't have their cameras on and that's their choice. As long as you can see the 14 panelists, you should be good.

Mr. Schmelz told Mr. Friedman the introductory statement he reads at every meeting is very elegant and he public appreciates that. Mr. Schmelz stated the question every one has and no one has an answer to is what is "strict application of the law". It almost seems like the law is the law. It's either you follow the law or you don't follow the law. It's interesting the choice of words used and it sounds like the law is so strict and it is so bad. It is concerning a lot of people. Mr. Schmelz stated he would like to understand the "criteria". If a lot of people don't understand the criteria until the very end, wouldn't it be useful for the board to tell the public what the criteria was while listening to the application.

Mr. Rondello stated you do know what the criteria is. You hear it out of every, single expert witness on behalf of the applicant. They are putting forth the positive criteria. "Positive criteria" is an ambiguous phrase. The applicant presents expert testimony. They speak about the application. Mr. Mondello stated

the public is going to hear specifically from the applicant's planner, Mr. Spatz. He is going to talk about the criteria in detail.

Mr. Schmelz stated his intent is to go get a broader understanding. He knows there's criteria that needs to be met but they don't talk about what the strict criteria is that needs to be met. Mr. Schmelz stated a lot of people are asking what is the criteria. Mr. Schmelz inquired if the board has a planner to look at things as well. Mr. Schmelz stated he knows they have hired a planner in the past to dispute what someone else's planner might say.

Chairman Stein stated when they have variances, he will state how many variances an application requires. Mr. Stein stated the board does not have a planner. There was only one occasion last year where they hired a planner. They usually rely on the applicant's planner. The board members decide whether the points the planner makes are legitimate or not.

Mr. Mondello stated Mr. Schmelz is familiar with the phrase from being on the planning board. It's positive and negative criteria. It's either the applicant meets the criteria or they don't. Mr. Mondello stated the criteria is going to be heard from an expert or if an applicant represents themselves, they might say they have a growing family and need more space and would like to stay in Bergenfield.

Board engineer Rotonda stated the board has had a planner for the past two years as he is a planner. Mr. Rotonda stated everyone who votes on the cases is a resident and knows the town better than outsiders in the community. Although Mr. Friedman is eloquent in speaking about the strict application of the laws, in the end, each individual member casts an individual vote. Mr. Rotonda stated they still haven't heard from the planner for one of the controversial applications to be heard tonight. It must be very frustrating to the public and the board understands that these are trying times. Mr. Rotonda stated if the forum was easier to use, some of the questions would be answered more quickly.

Mr. Schmelz stated with all due respect, if he was going to court in any kind of matter, he would bring his own lawyer. He would not rely on the other person's lawyer to be honest and settle for both sides. Mr. Schmelz inquired if the board decided a planner was needed, wouldn't the applicant pay for one. Mr. Schmelz inquired why the board would rely on somebody else's planner if they could have their own planner.

Mr. Stein stated the applicant has a planner, but the objectors can bring a planner also. The board can do that. Mr. Stein explained in the 22 years he has been on the board, they have only hired a planner once and there have some very controversial cases in the past. The board does not use a planner unless they feel it is absolutely necessary and it is at the discretion of the board.

Board member Friedman stated the reason why he used the term "strict application" is because that's the term precisely used in the statute which governs what the zoning board of adjustment can do. Mr. Friedman stated that's the language used in all of the case law that discusses the application in this section. He didn't make it up. Mr. Friedman stated the criteria for the granting of a variance are set forth clearly in N.J.S.A 40:55D-70 which is available to everybody to read because it is found online. If anyone is interested in knowing what criteria the board follows to determine whether there should be a variance from the strict application of the zoning ordinance, those criteria are found in 40:55D-70.

Mr. Schmelz thanked Mr. Friedman. He didn't accuse him of being strict. He was just asking that question. He apologized if Mr. Friedman took it that way.

Diana Flagg, resident, requested board members or the board attorney identify themselves when they first speak as all the voices blur together. Ms. Flagg asked Mr. Friedman what is deemed/considered a hardship. Ms. Flagg inquired if there is anything else that's considered a hardship.

Mr. Mondello stated that a hardship for a C1 variance is reserved for the shape of the property. If someone bought a triangle lot, it would be difficult to build a house without exceeding the side yard variances and perhaps the front yard. That's a hardship. Money never comes into play. Mr. Mondello stated under the C2 variance, they would have to prove the positive and negative criteria. They either do or don't.

Julia Nuesch, resident, stated she noticed in one of the applications, an address is given as the person that owns the property. The next page of the application has the company information which is also the owner of the property and it also lists the same address as the location of the business. Ms. Nuesch inquired when the owner of a property is asked for their residence, shouldn't the address be the address of their resident that is in the affidavit and not the address of the site of their business. Ms. Nuesch stated she will wait until the application she was referring to comes up and will raise her hand again.

Mr. Mondello stated if the applicant is also the owner, they should be putting their address. Many times, the applicant is not the owner. The applicant can be a contract purchaser (i.e. developer) and in that case they would be putting down their business address. Mr. Mondello stated they are getting to the point, where a specific application has not been named, but the resident is referring to a specific application. Mr. Mondello stated he made the same mistake. Mr. Mondello stated when that application comes up, the resident can ask the applicant why they put this in that box and get an answer from the applicant. Mr. Mondello stated he is recording this meeting.

Janet Rosado, resident, inquired what the role of the chairperson is. Ms. Rosado inquired if the chairman offers an opinion, wouldn't it be persuading the other board members. She inquired if the chairman should be neutral.

Mr. Mondello stated the role of the chairperson is laid out in the Bergenfield zoning board by-laws and also in the land use law. The chairman essentially runs the meeting. The chairman can stop the meeting, continue the meeting, and call on people. He is the facilitator of the meeting.

Mr. Stein stated the chairman is part of the zoning board. Each member of the zoning board is entitled to an opinion. It's up to the other members of the zoning board to feel that's their opinion or not. The chairman can not impose his/her opinion on anybody. Every member of the zoning board has the same vote and all votes are equal.

Maria Ng, resident, inquired if there is a due date to approve a proposal from when it was submitted.

Mr. Mondello stated the zoning board has 120 days to approve or deny an application, unless the applicant consents to an extension of that time period.

Barry Doll, resident, inquired who is eligible to vote tonight and what are the board member's names. Mr. Doll inquired if the members of the board have a copy of the regulation with them that Mr. Friedman mentioned.

Mr. Stein stated himself as chairman, Amnon Wenger, vice chairman, Charlie Steinel, Sara Berger, John Smith, Richard Morf, and Joel Nunez, Marc Friedman and Jose Morel are alternates. The first seven members can vote. The alternates can not vote unless one of the first seven members recuses themselves.

Mr. Mondello stated typically the board members have old copies. The statute is easily accessible.

Mr. Stein stated there is an attorney and engineer at all times. He has the NJ land use book with him all the time. It is not required for the board members to have it with them at all times. The board members are well versed in the rules. You don't have to carry the books around with you to know what you're doing.

Mr. Wenger stated each member of the board was required and did go through a training course where they were versed in all of the laws and regulations, including making positive and negative criteria, and make their determinations. Mr. Wenger stated everyone had to pass a test and go through the course to be eligible to sit on the board.

Ed Hernandez, resident, stated Mr. Schmelz has a point. There should be some type of representation.

Mr. Mondello stated that is a comment for when the application for 145 W. Main Street starts or during a comment period.

Jose Gonzalez, resident, inquired who, when, and how it gets decided on the board bringing a planner. He inquired if there is any record of it and if there is a process. Mr. Gonzalez inquired during which meeting was a decision made to hire a planner in the past. Mr. Gonzalez inquired if there is any other board member that can remember the date and time of the meeting where decision was made to bring an expert so he can go on the website and see that information in the minutes.

Mr. Stein stated there is a record of everything. The board doesn't do anything that's not public. Everything is recorded. The board will have a discussion in front of everybody if they have to hire an expert. The applicant has to pay. Mr. Stein explained if the board should decide on a specific application that a planner or another expert is needed, they will have discussion and then vote on it. Mr. Stein stated he has been on the board for 22 years and can't remember. Mr. Stein stated the board represents the borough of Bergenfield. The expert would be to counter what is being presented to the board by the applicant.

Mr. Wenger stated there has been occasion the board has hired people on their own. If one of the board members felt there was a need for it, they would make a motion to hire somebody for the board. If someone else seconded the motion, the board would vote on it. If nobody on the board felt a certain application needed a outside expert, then the discussion would have never come up. It would be only when someone affirmatively decided to bring that motion that there would be discussion in the minutes.

Board member Berger stated she doesn't have a recollection. She stated the planning board had such a thing. He can go through the minutes of the planning board.

Mr. Smith stated he had made a recommendation for a planner after all the testimony from the applicant's traffic planner and their other planner. They have to listen to all of the planners' testimony before the board can ask for their own planner. Mr. Smith stated the board was looking for a different opinion.

Mr. Mondello stated the board may hire a planner or a traffic engineer and they may agree with the applicant's expert. He has seen that. The process can happen at any time. It can be at the first meeting, as soon as the attorney starts speaking about a particular application. If the board feels it's very complex and would like another opinion, someone will raise the issue and the board will vote either for or against the engaging of another professional.

Mr. Wenger stated they hired a traffic planner in respect to the Congregation Ohr Ha Torah application in 2017.

OLD BUSINESS

Resolutions:

1. Shanty LLC, 51 E. Main Street, Requesting extension of project

Motion By: John Smith
Second By: Amnon Wenger
All ayes. None opposed.

2. Genevieve McCarthy, 78 Lake Street, An addition

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

3. Samuel Moer, 40 Laurel Court, An addition/alteration

Motion By: Charles Steinel
Second By: Amnon Wenger
All ayes. None opposed.

4. Adrian Maldonado, 304 Merritt Avenue, In-ground swimming pool

Motion By: Sara Berger
Second By: Charles Steinel
All ayes. None opposed.

5. David Landman, 40 Hampton Court, Build a deck

Motion By: Sara Berger
Second By: Shimmy Stein
All ayes. None opposed.

Appointment of Professionals

Nomination of Board Attorney:

Gloria Oh

Motion By: Shimmy Stein
Second By: Amnon Wenger
6 ayes. 1 nay.

Board member Charlie Steinel recused himself as he had a conflict of interest with 3 of the applicants for board attorney.

Mr. Stein thanked Mr. Mondello for 15 years of incredible service. He welcomed Ms. Oh to the board Mr. Stein explained Ms. Oh will be taking over for the two residential applications. Mr. Mondello will handle the application for 145 W. Main Street if they get to it tonight and until it is over. Mr. Stein stated Mr. Mondello will remain on the panel as he is controlling the Zoom. Mr. Stein stated, on behalf of the board

and the entire town, he thanked Mr. Mondello for the incredible work he's done and Ms. Oh has very big shoes to fill.

Ms. Oh thanked everyone for their vote of confidence and is happy to work with everyone. She has no doubt that Mr. Mondello will be there to guide her should she need his assistance.

Mr. Stein stated whoever is appointed as board engineer will not be paid for travel time. All of the applicants will have to understand that. None of the applicants are charging that. Mr. Stein stated they get them afterwards. Mr. Stein stated travel time is not part of reimbursable travel time.

Mr. Smith stated whoever is appointed should provide the review in a timely manner, not two days before the meeting. It should be included in the contract. He didn't see anything about the travel time.

Mr. Nunez inquired about reimbursable charges.

Nomination of Board Engineer:

Pennoni Engineering

Motion By: Shimmy Stein

Second By: John Smith

6 ayes. 1 nay.

Mr. Stein stated Mr. Rotonda will stay on for the residential applications. He has to stay no matter what because the board didn't know Pennoni Engineering was going to be appointed.

Mr. Mondello stated Mr. Capizzi had texted him telling him he has a number of professionals waiting. He's not sure if he's going to be reached this evening.

Mr. Stein stated it is now 9:13pm. They will probably not get to Mr. Capizzi until 10:00pm. Mr. Stein stated Mr. Capizzi can wait until 10:00pm or he can bail. Mr. Stein stated he knows Mr. Capizzi asked for a special meeting. He will poll the board to see if there should be a special meeting. Mr. Stein stated they will discuss the special meeting later. Mr. Stein stated if they go until 11:00pm with Mr. Capizzi's professionals, the public's questions would be for those professionals only.

Mr. Capizzi stated he will take advantage of having the hour at this meeting.

Mr. Stein thanked Mr. Rotonda for his two years of service. Unfortunately, the board chose a different path to take. He thanked him for his excellent service and enjoyed working with him. Mr. Stein stated they are going to ask Pennoni Engineering to send one representative which is important in developing a relationship with.

The meeting was recessed at 9:16pm and resumed at 9:22pm.

NEW BUSINESS

1. Steven & Ronit Hagler
56 Harriet Avenue

Susan Berman, licensed residential architect, 496 Northumberland Rd, Teaneck, NJ, stated 56 Harriet Avenue is a corner property at the intersection of Harriet Avenue and Quincy Lane. The lot is 60 ft. wide. The total footage is 6,152 sq. ft. Ms. Berman stated years ago the Haglers had invested in their home and had done an interior renovation. They love their home, where they live, their neighbors, and would like to

stay put. Their family has grown and they have more needs for their house. The project includes a larger kitchen, a larger family room, and an enlarged basement playroom. The existing bedrooms are modest, but adequate. They now need additional bedrooms which are being proposed to the rear of the property. The proposed total increase in building coverage is approximately 728 sq. ft. They are within the 30% permitted. Ms. Berman stated they will be removing the existing deck and den. In its place, they are proposing a 2 story addition with more living space on the first floor and additional bedrooms on the second floor. The left side of the house has a garage door. There isn't full garage space behind the garage door, but a 12 ft. deep room used for storage. There is no place to park a car inside the house. The home they are proposing will be coming forward on the lot slightly. The front of the house is already existing non-conforming. Ms. Berman explained there is a small entry that is 21.9 sq. ft. from the property line. They are proposing to adjusting the roof line and put in a small covered porch. They are trying to give the home a little more curb appeal. Ms. Berman stated they will be putting in bigger windows for emergency egress. They will be removing all non-essential paving. There is a very small patio on the property and will be removing it. The sidewalk at the side of the house will be removed. Ms. Berman stated they are proposing to maintain the corner, which is tree lined. They are requesting relief for the front setback, rear setback, and impervious coverage criteria. The home proposed is within the permitted 30%. The front walkway is very short and terminates at the driveway. They are requesting a 2 car driveway. In addition, they are proposing a modest patio in the rear of the property. The bathtub in the basement is existing.

Chairman Stein stated there won't be any bedrooms in the basement. Mr. Steinel inquired if the front porch will be coming out from the existing or will the existing porch remain there.

Ms. Berman confirmed there won't be any bedrooms in the basement. Ms. Berman stated they are leaving the entry to the existing porch and are proposing in front of it a covered porch.

Mr. Stein stated one of the requirements of the board is seepage pits for drainage.

Board engineer Rotonda stated there was nothing remarkable about the site. He stated his review indicates they would like to see each applicant alleviate runoff by putting in a seepage pit and, if possible, connect to a storm drain. Mr. Rotonda stated he heard the chairman ask if there was going to be an egress window in the basement.

Mr. Stein stated there is a egress window.

Ms. Berman stated they would be agreeable to putting in a seepage pit.

Ms. Berger inquired if the driveway is going to be asphalt or pavers.

Ms. Berman stated they are proposing to make the driveway a two car width with 18 ft. Their preference is to use asphalt at the front of the house and pavers at the back for the patio.

Mr. Stein suggested using pavers as that would reduce their coverage. They could alleviate some of the variance necessary. It would be better for the neighbors with water runoff. There's a lot of water in that part of town. The board has become stricter about runoff issues and paving.

Mr. Hagler stated yes, that's fine.

Mr. Stein stated should the application be approved, there will pavers there instead.

Mr. Smith stated according to the drawing, they are 8 inches off the property line. The ordinance states 2 ft. It looks like the building department missed that variance because it's supposed to be 2 ft. off the

property line. Mr. Smith inquired if there is anyway the driveway can be moved to the right to get the 2 ft. There is a parking problem because of the garage. Mr. Smith inquired what would happen if the neighbor puts up a fence. There are going to be problems.

Ms. Berman stated there is the existing entry and it has the foundation. Ms. Berman stated they don't have the ability to get to the 2 car driveway without demolishing the front entry from where it is.

Mr. Rotonda stated he thinks that is called design waiver. It's not strictly called variance because the driveway is not considered the same as the footing of the foundation of the building.

Mr. Stein stated Mr. Ravenda looks at the plan with a fine tooth comb. He's assuming Mr. Ravenda let it slide because of the existing entrance area. Mr. Stein inquired how long the other neighbor has been there. Mr. Stein inquired how far is the fence from the driveway. Mr. Stein stated that was given by Mr. Ravenda as a variance.

Mr. Steven Hagler, applicant, stated the house is under contract. He thinks the new residents are going to be in the house soon. Mr. Hagler stated the neighbor had put up a fence about 4 months ago and doesn't meet the garage. Mr. Hagler stated it wouldn't be hitting the garage directly.

Mr. Smith stated while opening the car door, it can damage the fence and the car.

Mr. Nunez inquired if it would be possible to move the driveway 1 foot and 4 inches to the right. It would help out a little bit more with the coverage. Mr. Nunez stated he doesn't see any egress windows in the new development or if the windows will be egress accessible also. Mr. Nunez stated the entryway looks narrow and a person can get trapped. If a person is blocked in the office, there is no way to get out.

Ms. Berman stated the windows were not proposed as accessible.

Mr. Stein stated there are two means of egress, with the stairs. That's all that is required.

Mr. Morel stated a use of pervious pavers would eliminate the need for the variance. If pervious pavers were used for the driveway and the patio, it would be under the 35% limitation. Mr. Morel stated it was something he had to do. The permeable pavers were very useful after all the snow this winter. It was an added cost, but was a worthwhile investment. Permeable and pavers are two different things.

Mr. Stein stated they had agreed to put in pavers should the application be approved. This board requests applicants to use a certain type of pavers. The town is very big on it and if done properly, they alleviate the runoff issue.

Mr. Smith stated he is following up with comments made by Mr. Nunez and Mr. Morel. Mr. Smith inquired if it is possible to move the driveway over. Mr. Nunez had said the same thing and also that it would help a little bit.

Ms. Berman stated she doesn't know if they can move the driveway a whole 2 feet but can try to get it closer to 2 feet.

Mr. Stein stated should the application be approved, it can it be written in the resolution that the distance between the property line will be maximized. Mr. Stein stated they will install a seepage pit as per the engineer's requirement, maximize the distance by the driveway, and use the pavers recommended by the board.

Ms. Berman's response was yes.

Questions from residents within 200 feet and beyond:

No one came forward.

Motion to approve application with conditions stated:

Motion By: Amnon Wenger

Second By: John Smith

All ayes. None opposed.

2. Ori Schwartz & Ayelet Grajower
66 Maiden Lane
Second floor addition

Mark Madaio, attorney for applicant, 29 Legion Drive, Bergenfield, NJ, stated the application is simple. They are taking the existing building footprint and adding a second story. They are not incurring into any yard or setback of greater amount. Mr. Madaio explained they have one yard variance that is classified as the side yard at Frederick Place. The existing house is 6.3 ft. They are not increasing or decreasing the variance. They are just adding the second floor at the exact same distances. Mr. Madaio stated in some communities, this would not even be an application but technically it is the expansion of a non-conforming structure. It is adding more footage at variance and can be accomplished by a variance that goes linearly, addition to the rear or front of the property and in this case, can be accomplished linearly adding a second floor at the exact same place as the first floor. They are eliminating an existing coverage variance, which is a benefit.

Piero Gabucci, licensed architect, stated they are not adding any variances. They are adding a second floor exactly over the first floor. Mr. Gabucci explained they are expanding the footprint but within the setbacks required. The setback is 6.3 ft. now as it exists and will be the same later. The second floor is to expand to add more bedroom and living space. Mr. Gabucci stated this is considered a 1 ½ story home, meaning the second floor already exists and are just filling in around it. They are bumping it out to be consistent with the walls of the first floor. Mr. Gabucci stated they will be switching out some pavers and will be eliminating an existing coverage variance. The current property has an addition and garage that will be removed and rebuilt tying it to the house. They are also going to remove a lot of pavers that exists on the property. They will be reducing it to about 400 sq. ft. bringing it down from 48% to 39.9%. Mr. Gabucci stated the lot is 44 ft. in width across the rear and is trapezoid shaped. The unusual shape of the lot contributes to the problems of the property. It tapers to the back, is non-conforming for its width and is a corner lot.

Mr. Madaio stated there is a full dimensional frontage on Maiden Lane, which is being preserved for the second floor and a 15 ft. frontage on Fredrick Place which they can not do any better than is existing. Mr. Madaio stated a C1 variance is based on the exceptional narrowness, shallowness or shape of a piece of property or odd topographical condition, or by any other extraordinary situation affecting the property or the structure lawfully thereon. If building a second floor, there is no place to put it except on top of the first floor.

Mr. Gabucci stated Mr. Madaio's statement was correct. Mr. Gabucci stated he put the Frederick Place setback line on the drawing and shared the site plan portion of the drawing on the screen. The 15 ft. setback line goes through two rooms. It would be very difficult to design and push it back. It is a narrow house.

Mr. Madaio stated the application seeks to eliminate a 10.0 coverage. They are not increasing or altering any variance. They are doing add a level.

Mr. Stein stated for every alteration, the board requires seepage pit. However, they are reducing the coverage that is existing already and is not sure if it's necessary to add the seepage pit. Mr. Stein stated he does not see a purpose for the seepage pit. Mr. Stein inquired if it's 17 ft. from the house to the curb. It doesn't look like 6.3 ft. setback. It sits very nicely from the curb.

Board engineer Rotonda stated he agrees that the lot is exceptional. The corner lot is undersized and very difficult to build anything there. He has no objection in waiving the requirement for a seepage pit on the property.

Mr. Wenger stated this is a good application and is a perfect example of C1 variance to be granted.

Mr. Friedman agreed with Mr. Wenger and stated it was a fine application.

Mr. Smith stated everything is good. Mr. Smith stated he thinks there will be more runoff water with the second floor addition. The only problem he has is with the seepage pit.

Mr. Stein asked Mr. Madaio if his client would have any objection to putting in a small seepage pit.

Mr. Madaio stated adding a second floor does not create any more coverage. Mr. Madaio stated taking a roof from 14 feet to 26 feet, and as long as it is the same exact roof, does not add anything to runoff. Mr. Madaio stated he would defer to the engineer coordinating with their architect or engineer. A seepage pit is approximately a \$10,000 item.

Mr. Stein stated he agrees with Mr. Madaio 100%. Mr. Stein stated should the application be approved, the engineer and the architect would discuss, do the final calculations and see what needs to be done.

Mr. Morf inquired where the water is going to go if there isn't going to be a seepage pit.

Mr. Madaio stated they are reducing the coverage by 10%. There is no additional water. Mr. Madaio stated adding a roof, whether it is 16 ft. off the ground or 26 ft. off the ground, is exactly the same amount of impervious coverage. Mr. Madaio stated the board's own engineer testified that it does not add anything. They are reducing the coverage by 10% and eliminating 25% of the impervious coverage on the property. Mr. Madaio stated they are not increasing the load of the property in any way.

Mr. Nunez inquired if the seepage pit has anything to do with the water inside the building, especially with the addition of 3 bathrooms.

Mr. Rotonda stated the water in the interior of the house should be going to the plumbing system and into the sanitary sewer. Mr. Rotonda suggested what could be helpful, that other applicants have produced, would be to have some calculation to demonstrate there has been no increase in the runoff and would justify not needing to install a seepage pit. A seepage pit offsets the adverse effect of adding impervious to the lot. The testimony heard tonight was that they were reducing lot coverage.

Questions from residents within 200 feet and beyond:

No one came forward.

Motion to Approve Application:

Motion By: Amnon Wenger

Second By: Sara Berger
All ayes. None opposed.

The meeting was recessed at 10:16pm. The meeting resumed at 10:22pm.

Application: 145 West Main Street, LLC
145 West Main Street
Change of use to a multi-family dwelling R-5 zone to RM zone
(carried from February 24, 2021 meeting)

Matthew Capizzi, attorney for applicant, stated they would like to get through the testimony of Mr. Chris Blake tonight. He appreciates any time the board can give them on this application.

Mr. Stein stated he is in favor of a special meeting. The applicant has been very patient and it shouldn't be going on for this long. Everything has to be heard and they need time. They need as much time as possible to do justice for the residents of Bergenfield and the applicant. Mr. Stein stated doing it continuous in a 3 hour stretch is much better than doing it piecemeal, with a hour here and a hour there. It's not fair to the applicant, not fair to the residents, and not fair to the board.

The board was polled to hold a special meeting for 145 West Main Street. Mr. Stein, Mr. Wenger, Mr. Friedman, Mr. Steinel, Ms. Berger, and Mr. Morel were in favor of having a special meeting. Mr. Smith, Mr. Morf, and Mr. Nunez were against having a special meeting.

Ms. Berger suggested the special meeting be held on March 17, 2021. All of the board members, except for Mr. Nunez, agreed to having the special meeting for 145 West Main Street heard on March 17, 2021 at 8:00pm.

Mr. Stein stated the meeting will still be 3 hours no matter what time it starts. Four hours would be too much.

Mr. Capizzi stated they were before the board on February 24th, 2021. At that time, testimony was heard from the engineer, Mr. Hubschman, and the architect, Mr. Blake. They spoke about revised plans that were filed 12/30/20. During the hearing held on February 24, 2021 a major part of the discussion was about the capability of the trash room to accommodate the refuse generated from the building and how garbage pick up would be handled. They addressed comments, questions, and concerns by filing new exhibits on February 26, 2021. Mr. Blake had provided some updated sheets for his architectural plan showing the proposed refuse containers in the trash room as well the compactor. He updated the means of entering and exiting the trash room both at the garage portion and the front portion by the front walk. Mr. Capizzi stated Lou Luglio had also compiled some data showing how much trash would be generated for a building of this size. He also spoke to a different garbage hauler. Mr. Capizzi stated part of Mr. Luglio's testimony would include a revised method of picking up the refuse from the site, which would utilize a pick up style truck. The garbage hauler would be able to pull into the garage level and then turn around facing out on W. Main Street, staying within the entrance aisle. He will collect the refuse, return the containers from the trash room, and then exit the site. There might be a need for a larger frequency of pick ups because a smaller pick up truck would be used. There is no more concern with obstructing traffic on W. Main Street.

Mr. Smith inquired if the new plans were sent to the building department for review. Mr. Smith stated as of today, they didn't get the revisions. Mr. Smith inquired if the building department was given a list of all the changes that would impact the effect of this application. Mr. Smith stated he had a hard time looking at the copies emailed and inquired why they weren't given hard copies. Mr. Smith stated this is a

problem as they did not know about the three bedroom apartment at the last meeting. Now, they were being hit by some other things that were emailed to the board members. Mr. Smith stated the materials were emailed last Friday and does not know why the board was not able to get hard copies by today.

Mr. Capizzi stated hard copies were filed with the borough. Mr. Capizzi stated everything goes through Hilda. They did not provide the building department an itemization of the revisions. Mr. Capizzi stated the building department will eventually weigh in on the plan, if and when the application is approved, when they file for a building permit. None of the changes they are making affect the bulk table or any of the variance relief they are seeking. Mr. Capizzi stated exhibits could be presented on the day of the meeting when they were live in person. Mr. Capizzi stated he is trying to give the board members the exhibits in advance of the meeting so they can review them.

Mr. Mondello stated it is what it is and for whatever reason hard copies have not been distributed to board members. As Mr. Capizzi had stated, it is not unusual an engineer will throw up a new plan and say that there were modifications recently made and explain to the board what the modification are.

Mr. Capizzi stated whether the board has adopted the DCA regulations, the DCA regulations are still controlling and require that exhibits be posted online at least two days before a hearing. They have been in compliance with those regulations.

Mr. Stein stated the board has not adopted those regulations yet.

Mr. Rotonda stated if the plans are changed substantially enough, they can get a new review before the next meeting. Mr. Rotonda stated there are questions about the plans received on Friday and is just suggesting the architect describe the changes and if it's substantial then they will have to post more money into the escrow.

Mr. Capizzi stated they have already utilized a fair amount of escrow on the project to date. The plan changes are not engineering in nature. There is no further need for engineering review.

Mr. Stein stated it is now 10:37pm and suggested the architect start with his testimony. There will be no vote tonight. Mr, Stein stated by the next meeting, they will all have hard copies of the changes and the revisions will be known by everyone.

Mr. Capizzi stated they were here last Wednesday on February 24th, 2021. The public and the board raised certain comments and questions about certain elements. The applicant did what they could do to address those comments by way of revisions. The plans were revised and filed on Friday. There just wasn't enough time for him to get them to Hilda and then for her to distribute them to the board members by mail. There isn't anything done here not to provide the materials to the board. Mr. Capizzi stated concerns are being raised and the applicant is doing their best to revise the plans to address the comments, questions, and concerns and then have it filed.

Mr. Stein stated Mr. Capizzi is 100% correct. It does not pay to have Chris Blake start his testimony tonight because he won't get past his introduction.

Mr. Capizzi stated with the exception of the three sheets of architectural plans that were revised to address the trash questions, all of the materials have been filed at least 10 days ahead of time and with hard copies filed with the borough. Mr. Capizzi stated this was a limited circumstance driven by time constraints. Mr. Capizzi stated Mr. Blake will get his revised plans to him within a day or two and he will get them to Hilda so she can distribute. The board will have time to review them by way of hard copy before their testimony on March 17th, 2021.

MOTION TO ADJOURN MEETING

Motion By: Shimmy Stein

Second By: John Smith

All ayes. None opposed.

Meeting was adjourned at 10:41 pm.

Respectfully Submitted,



Hilda Tavitian, Clerk

Zoning Board of Adjustment