

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
April 5, 2021**

Chairman Shimmy Stein called the meeting to order at 8:04 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 March 29, 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 stated 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 (joined at 8:40pm), Joel Nunez, Amnon Wenger, Marc Friedman, and Jose Morel

Absent:

Also Present: Gloria Oh, Zoning Board Attorney, Carlos Fuentes, Zoning Board Engineer, Councilman Marte, Council Liaison, Michael Knowles, Planning Board Liaison, and Hilda Tavitian, Zoning Board Clerk

APPROVE MINUTES OF PREVIOUS MEETING – March 1, 2021 & March 17, 2021

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

CORRESPONDENCE

Chairman Stein stated they received a letter today from Mrs. Rosado's attorney that they will be her attorney moving forward on the 145 West Main Street application.

Mr. Stein stated verbal communications will be held 15 minutes before the meeting ends.

OLD BUSINESS

Resolutions:

1. Steven Hagler, 56 Harriet Ave, Two-story addition at rear

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

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

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

Application: 145 West Main Street, LLC
145 West Main Street
Change of use to a multi-family family dwelling R-5 zone to RM zone
(Carried from March 17, 2021 meeting)

Board member Smith inquired if they are going to pick up in verbal communications with the people who had their hands up at the last meeting. Mr. Smith stated this is about the verbal communications part in which Ron had taken all the names.

Mr. Stein stated those people who had their hands up at the last meeting were part of the application, not verbal communications. Mr. Stein stated they can put them on, but they can't speak about 145 W. Main Street. Mr. Stein stated he believes all those names were for all the people there for the 145 W. Main Street application. They will call those names, but they can't say anything about the application or anything on tonight's agenda.

NEW BUSINESS

1. Fabian Bonilla, 193 Woods Ave, Add a family room, master bedroom, and bathroom

Mr. Smith stated the application is not complete because there is no proof that taxes were paid or are up to date. Mr. Smith stated the tax office usually gives the board a piece of paper showing the taxes are current and paid up to date.

Mr. Fabian Bonilla, applicant, stated the taxes are paid up.

Mr. Stein stated should the application be approved, it would be pending that taxes are paid in full.

Mr. Smith inquired if the applicant went to the tax office to get the tax office certification part of the application completed. It is part of the application. He is trying to find out if the application is correct. The paper says "no exceptions". Mr. Smith always brings it up and he is always told the same thing.

Mr. Stein stated they have never always gotten that paper.

Board attorney Oh stated there is a form the applicant had submitted. It is not signed by the tax collector. Ms. Oh stated if the application is approved, they can make it subject to the taxes being current.

Mr. Stein stated the board will be polled to see if the application should be reviewed. 3 ayes, 4 nays. Mr. Stein stated they can not proceed. The application will be carried over to the next meeting, 5/3/21, with no further notification necessary.

2. Elozor Preil, 65 Maiden Lane, Add a sunroom and deck

Ms. Oh stated they too have the same issue as the previous applicant. The tax collector's certification has not been signed.

Mr. Stein stated without the certification, they will be held over to the next meeting. Mr. Stein stated no further notification is necessary.

Mr. Smith stated their property came before the board before. They checked off yes, but they didn't give the date when the board heard this application before.

3. C.R. Restoration, LLC, 83 Hickory Avenue, Build six town houses

Board member Friedman stated the certification of taxes is incomplete.

Bruce Rosenberg, attorney, stated he sent his request dated 1/29/21 to the tax collector with the application. The tax collector did not return the certification page.

Mr. Stein inquired if the tax collector got it back to him. Mr. Stein stated they will hear the application regardless.

Mr. Rosenberg stated there will be three professionals testifying, Dan LaMothe, professional engineer, Jacob Solomon, licensed architect, and Michael Kauker Sr., licensed land use planner. Mr. Rosenberg stated the application is for 83 Hickory Avenue, a proposed six town home project. The property is unique in that it's 21,986 sq. ft., whereas the R5 zone only requires 10,000 sq. ft. for a two-family dwelling. The property is double the size that's permitted in the zone and it is a flag lot in shape. The property is currently approved with a two and a half story home with a garage and shed. The proposal will require a use variance for the proposed six town homes, a height variance for three stories, where two stories is permitted, and other bulk variances associated with the application.

Dan LaMothe, licensed engineer from Pak Associates, shared on the screen exhibit A2, a colorized sheet which is the first of five pages in the site plan. The sheet shows the landscaping, pavement in the parking area, the lawn areas, patio areas, trash enclosure area, and heat/water meters. Mr. LaMothe stated there are 6 proposed visitor spaces and 6 townhouse units that have a combination of a driveway and a garage.

According to RSIS standards, they have 18 total proposed parking spaces because the driveway and garage spaces count as 2 units. The lot is flag shaped and the site is known as 83 Hickory Ave, lot: 38 block: 28. The flag portion of the lot is 142 ft wide x 125 ft deep. The post part of the lot is 42 ft. wide and 100 ft. deep. The driveway comes in through the middle of the flag portion of the lot on Hickory Avenue. The total lot area is 21,986 sq. ft., which is approximately ½ an acre. Mr. LaMothe stated currently on the lot there is an existing 2 ½ dwelling, a two car garage combination with a shed, and an existing driveway. There currently is no drainage system onsite. The existing utilities for the house and garage come off of Hickory Avenue. They are proposing a new building consisting of 6 town house units. Each town house unit is approximately 18 ft. wide and 41 ft. deep. The total length of the building is 108 ft. deep.

Mr. Lamothe stated each unit will have a small paver patio of 8x10 feet. The main entrances will be in the front of the building. The building itself will meet all of the required setbacks. The side yards are 17 ft. and the rear yards are 25 ft. The existing structure on the property is approximately 15.9 ft. off the Hickory Ave right of way, which is existing non-conforming of 4.2 ft. There is a 20x6 ft. dumpster that is to house the trash cans for each of the units. The trash cans can be brought to the curb on trash pick up days. Mr. LaMothe stated there will be a buffering along the perimeter. It is about 12 ft. on the right side of the driveway and 10 ft. on the left. The driveway is 20 ft, where 17 ft. is required. The 20 ft. width of the driveway is more appropriate. Emergency vehicles would easily be able to enter the site. There will be a 6 ft. solid, vinyl fence around the perimeter of the site to help screen the project. They are also proposing to maintain all of the existing landscape. There will be trees at the perimeter of the site to maintain the vegetation on site. Mr. LaMothe stated they are proposing buffer landscaping, evergreens and shade trees. They are requesting a use variance, proposing 6 town house units, where 2 family is the maximum amount of units for the zone. The lot is an oversized lot in the zone, which is a little more than two times the required lot area. They are requesting an improved lot coverage variance of 63.2%, where 40% is the maximum allowed. They are asking for a variance to construct a 30 ft. high building that complies. However, Mr. Lamothe explained they are building a structure that requires a variance. They are requiring the driveway width variance associated and a curb cut variance, where they are proposing 26 ft. where the maximum allowed is 20 ft. They are also requesting a couple of variances related to the utility structure for the heated water enclosure. The setback for that structure is 15 ft. and they are proposing 3 ft. It will be placed in front of the principal building. The improved lot coverage when they presented to the site plan committee board was 66% and they reduced it to 63.2%. They reduced the size of the units, the driveway for each unit, and the patios. They also modified the walkway in front of the building.

Mr. LaMothe stated he reviewed the letter received from Mr. Fuentes and has spoken with him. They will be happy to address the comments made in the letter by the board engineer.

Board engineer Fuentes requested that Mr. LaMothe review the proposed stormwater, specifically their connection to the existing system.

Mr. LaMothe shared the drainage plan, Exhibit A2, on the screen. He explained they tried to capture all the water that will fall onsite and direct the roof drain and the parking area into a collection system that will retain the stormwater onsite. If there is going to be more than what they think they are going to get, they propose some inlets that will overflow into a new inlet on Hickory Avenue and connect into the drainage system to guarantee there are no stormwater runoff into the neighbor's properties. There will be a retention system 5 ft wide and 4 ft. deep that will retain the water from roof runoff and inlets. It will drain out to the front parking area where there are 2 seepage pits and another retention system. There are a couple of inlets in the proposed driveway.

Board member Smith stated he noticed there is a large tree on the right side of the property line and the roots are pushing the driveway up. He inquired if the tree is going to be removed and who owns the trees. Mr. Smith inquired if the width of the driveway is going to be enough for snow removal.

Mr. LaMothe stated the tree will remain. The proposed driveway is going to be further in. They are proposing a 12 ft. setback on that property. The driveway is going to be more to the left.

Mr. Rosenberg stated that is a wonderful, mature tree. The driveway will be shifted to help preserve the tree.

Mr. LaMathe stated currently there is 10 ft. on the left side of the driveway and 12 ft. on the right. Some of the snow can go into the access area and there is some area along the front parking where snow can be piled. There are more parking spaces than required by RSIS standards and in worst case scenario a parking space can be used. Most of the snow would be piled along the perimeter of the driveway and front portion of the driveway. Mr. LaMothe stated they would have a private landscaper plowing the snow.

Mr. Smith stated the plan is good. However, his concern is when there will be a good amount of snow if it snows for 2-3 days straight. Mr. Smith requested confirmation that the snow will be taken off site as the borough is not responsible for the snow removal as emergency vehicles need to be able to get in there with no problem. Mr. Smith inquired who will pay for the fire hydrant in front of the building.

Mr. Rosenberg stated this will be a private condominium association. The condo association is going to be responsible for landscaping and snow removal. It will be taken care of privately. Mr. Rosenberg stated that would be no problem and would be a condition of the resolution.

Mr. LaMothe stated they are proposing it as a private fire hydrant and it would be the homeowner's association responsibility for maintaining the fire hydrant.

Mr. Stein requested garbage removal be discussed. Mr. Stein inquired if the borough will be responsible for the garbage.

Mr. LaMothe stated there will be an enclosure for the trash cans for each of the units. The owners of the units would have to bring the cans out to the curb on trash pick up day in front of the site. The alternative would be having a private hauler handle the trash. It would be set up that it could work either way. Mr. LaMothe stated the site plan committee thought it would be best to set it up either way so a private hauler can haul the trash or the homeowners can bring it to the curb and the town can handle it.

Mr. Stein stated the problem is that there will be 12 trash cans out there at one time on the sidewalk that can be an issue.

Mr. Rosenberg stated the applicant has no problem making the private carting company responsible for the pick up on site. It was designed either way, but if the board is inclined to approve the application, it can be a condition in the resolution. There is no objection to that.

Board member Steinel stated the design has the water runoff going to the storm sewer on Hickory Ave. Mr. Steinel inquired if Mr. LaMothe spoke with the borough engineer to see if that storm sewer line can handle all of the runoff or are they going to cause back up further up on Hickory Ave going towards Tenafly. Mr. Steinel inquired if Mr. LaMothe spoke with the borough engineer if the stormwater sewer being capable of handling it. Mr. Steinel inquired if Mr. LaMothe had any contact with the borough engineer since the drainage calculations were submitted. Mr. Steinel stated they don't have anything from the borough engineer. They have it from the zoning board engineer, but there is a separate borough

engineer. They are the ones that control the sewers, not the board. Mr. Steinel inquired if they decide to put garbage cans out on the street, whose property will it be on, the next door neighbor to the right or to the left. There is no room. They don't have much option.

Mr. LaMothe stated the stormwater system onsite is designed to retain the runoff from the site. The runoff to the street is for emergency overflow purposes. There wouldn't be a lot of water coming off of the site. It's just good design practice. They don't anticipate having a lot of water. Mr. LaMothe stated they submitted the drainage calculations on the design plan to the borough engineer. They have his review letter and will address it.

Mr. Rosenberg stated they will review that with the borough engineer, as well. Mr. Rosenberg stated they had agreed to using a private hauler.

Board member Nunez inquired how tall the water meter enclosure will be. Mr. Nunez inquired about the big tree on the neighbor's property and if it would have any problems with the drainage on the proposed property.

Mr. LaMothe stated it would probably be 4-5 ft. high. The exact design would be worked out with the water company depending on what kind of water meter would be proposed. Mr. LaMothe stated he doesn't anticipate any problems with the tree. There will be a landscaping company that will maintain the trees on the property, leaves, and branches hanging overhead.

Board member Friedman inquired if the units are going to be sold to condominium purchasers and that it's not the owner's intent to rent out the units. Mr. Friedman inquired if there is sufficient room for one large fire truck to come into the development through the driveway and be able to turn around and come back out facing forward. Mr. LaMothe inquired if a large fire truck can safely back up to the street through a driveway of this size.

Mr. Rosenberg stated that is correct and that is the intent.

Mr. LaMothe stated the fire truck would have to pull in and then back it out, which was a concern expressed at the site plan committee. They have decided to spend more money into the building and have fire sprinklers installed that will service the building with a fire suppression system to alleviate some of those concerns. This level of construction would not require it but they felt having it sprinklered would be the best way to handle it. They will be providing a hydrant in the parking lot so the fire trucks can access the site and the hydrant. Mr. LaMothe stated the width of the driveway is 20 ft. and they are trying to make a wide radius on the turn so they can get to the hydrant.

Mr. Stein stated Mr. Steinel is a fire lieutenant and asked him if that is something he is able to answer from a fireman's point of view. Mr. Stein inquired if anyone had any suggestions to alleviate this problem.

Mr. Steinel stated you could back it out. It is not what you want to do because it becomes labor intensive. You have to put people behind it and in front of it to guide it out.

Mr. Rosenberg stated sprinklering the entire project would be helpful. The architect will describe the other fire safety measures taken to ensure fire safety in the buildings.

Questions from residents within 200 feet:

Daniel Van Hoorn, 63 E. Central Avenue, inquired how people are going to be compensated since the value of their homes are going to go down because of the monstrosity.

Mr. Stein stated that is for Mr. LaMothe to answer. It is more of a comment than a question.

Emuran Saidy, 80 E. Central Avenue, inquired what their plan is if there is 2 days of intense, continuous rain and if that rain water seeps into his property. Mr. Saidy inquired what the plan is for any overflow.

Mr. LaMothe stated water will be directed into the stormwater water drain. If there is any overflow, it will flow out into Hickory Avenue. There won't be any puddles in the backyards or the neighbor's yards. Mr. LaMothe stated the design is for the property to collect any runoff. The way the inlet and ground is pitched will direct the water to their lot.

Mr. Fuentes stated he reviewed the design and what they are saying is true. They have designed the system so it can contain everything in a 100 year storm. The overflow for that system is towards Hickory Ave.

Veronica Cabrera, 91 Hickory Ave, inquired how many people will be living in the homes. Ms. Cabrera inquired if the trees are going to damage her new fence.

Mr. Rosenberg stated the next witness, the architect, will answer that question.

Mr. LaMothe stated they can maintain her existing fence and try to match up with hers as it is continuous.

Constantina Meis Rosen, 93 Hickory Ave, inquired about pest control, mosquitos from rainwater, and if they have considered the environmental impact of the area. Mrs. Rosen inquired about noise pollution and the added lighting. She inquired what the plan is to curb the noise pollution.

Mr. LaMothe stated there will be no standing water in the drainage system. It will be directed underground. There will be no surface puddling. He doesn't anticipate any mosquito problems. Mr. LaMothe stated the trash will need to be maintained by the homeowner's association so it's kept clean of any debris. They would need to take the necessary provisions just like any other residential development would for rodent control.

Mr. LaMothe stated they are proposing two small light poles at the front of the development. They are a decorative, architectural style of light. They will be providing additional lighting information for the matrix. The lights will be LED and will be able to be dimmed. They will propose a light fixture in which the intensity and direction of the lights can be controlled. They will have to also comply with any lighting ordinance in town. They are proposing some solid, privacy fences at the back of each unit so they have a patio. There will be a solid fence between each of the units. People outside would have to comply with, just like any other residential house in the neighborhood. Mr. LaMothe stated they have a LED light fixture that looks like a decorative, acorn style light. Mr. LaMorte stated he will look into lights that cascade the light down.

Mr. Stein stated there won't be any lights shining on her property.

Doc, Hickory Avenue, inquired if it was stated that the property was a double lot. He stated he has been here for about 50 years and it's always been 1 or 2 homes. He inquired what the justification is for putting 6 residences when it is zoned for 2-4 homes. He inquired what the lots are going to be sold for.

Mr. LaMothe stated it's twice the size the lot required. It's twice as big than what is required. Mr. LaMothe stated the planner will testify and provide the proof for that.

Mr. Rosenberg stated the architect, who will be testifying next, will speak about that.

Mr. Smith inquired how the fire department is going to fight a fire in the rear or to the side of a building and how much hose is going to be required if there is not enough room for a fire truck to get back there. Mr. Smith stated even if there is a sprinkler system inside, there may be a fire in the back if people barbeque. Mr. Smith inquired if a fire truck has six lengths of hose.

Mr. Steinel inquired about the depth and width of the building. Mr. Steinel stated at least 6 lengths of hose is needed to get to the back of the building. Mr. Steinel stated there should be enough hose.

Mr. LaMothe stated the depth of the building is 41 feet and the width is 108 feet.

Questions from residents beyond 200 feet:

Jose Gonzalez, 45 S. Demarest Ave, stated more people, more apartments create more of a burden for the people who live around it, the fire department and the police department. He asked if anyone on the zoning board will ask for any assessments to be done to show the burden the proposed development will create for the fire department and police department.

Mr. Stein stated the planner will testify about that.

Norman Schmelz, resident, stated there is a spring on this side of town that affects all the properties going up to Tenafly. The sewer system is totally overburdened and can't handle it now. All of this water ends up going into the brooks. Mr. Schmelz inquired if this has been looked into. Mr. Schmelz inquired if there is a generator proposed. Mr. Schmelz inquired if this, building a complex, has come before the board before.

Mr. LaMothe stated they designed the drainage system to comply with the RSIS standards which requires a design for a 100 year storm and reduce runoff from existing conditions. Mr. LaMothe explained, currently, the site still runs off to the drainage system on Hickory Ave. The only difference is they have it so the neighbors won't be impacted by runoff. Mr. LaMothe stated there are no generators proposed.

Mr. Stein stated it is whether it came before this board by this owner.

Diana Flagg, resident, inquired if the applicant has applied to the state to get condominium approval.

Mr. Rosenberg stated any condominiums 9 units or less are exempt from registration.

Stephen Carmona, 20 Momar Avenue, inquired if the condos will have any basements. Mr. Carmona stated there is a tremendous amount of groundwater on this side of town, east of Washington Ave. Mr. Carmona inquired if it can be put in the resolution that they can't put in a generator or will they be able to apply for them in the future. Mr. Carmona inquired if each 6 people can apply for generator permits. Mr. Carmona stated his concern is about where the groundwater goes when there is a heavy rainstorm.

Mr. LaMothe stated there are no basements proposed.

Mr. Rosenberg stated if the board wants to put a limitation in the resolution for no generators, he has no objection to that.

Mr. Stein inquired what is Mr. Carmona's objection to having a generator for emergency use, that runs 10 minutes a week. Mr. Stein stated unless there are strong objections from the board or others, he doesn't want to hamper them with a restriction on generators, if necessary.

The meeting was recessed at 9:38 pm. The meeting resumed at 9:50pm.

Mr. Smith asked Mr. LaMothe to explain the utility pole and if there is going to be overhead wiring for the condos.

Mr. LaMothe stated the main pole, electric service line, is on the other side of the street to run it underground. Everything else is underground for the units.

Jacob Solomon, licensed architect, shared on the screen exhibit A3, artistic rendering R-1. Mr. Solomon stated they are proposing 6 town house units that are 3 stories and 30 feet in height. There is a decorative parapet that extends above the roof to hide the flat roof. The garages are on the main floor in front of the parking space. The second floor level contains the living room, kitchen, and dining area. The third level contains two bedrooms and two bathrooms. They are proposing stone along the base of the building and stucco between units. There is an aluminum panel that looks like wood with canopies over the doors in the front and rear. There is a decorative railing in front of the doors that looks like a balcony.

Mr. Rosenberg stated those are not balconies for people to be outside, congregating.

Mr. Solomon stated that is correct. The interior units don't have windows. They tried to maximize the light transmitted through the units by having large doors at the front and the rear. Mr. Solomon stated drawing A1 shows the foundation plan and the floor plan. Each unit has garage space. There is a front entrance to a foyer with stairs for all three levels. The rear of the ground floor has an office area, a linen closet and a full bathroom. The second floor plan shows living room space with a sliding glass door, mechanical room, powder room, and a kitchen area with a small table. There are two bedrooms, two bathrooms, and a small laundry closet on the third floor. The R5 use does not require it to be sprinklered. Mr. Solomon explained each unit will be fully sprinklered and the fire protection will be extended up to the roof with the mizer walls. The units are designed to appeal to young couples that commute to the city. They are proposing higher end appliances in the kitchen and nicer finishes for the exterior and interior. If it is an affordable unit is required by the borough, they will be required to provide a three bedroom unit. The ground floor office would become a third bedroom if the affordable unit is required. He expects the units to be marketed between \$500,000-\$600,000 per unit.

Mr. Stein inquired if the sheetrock will be going straight through the floor and stop at the ceiling or will there be a cut off in between the floors. Mr. Stein inquired about the rat patching, fire proofing between the floors and the pipes running though. He inquired if the penetrations will be continuous through the floor so there isn't a void.

Mr. Solomon stated they are proposing fire collars for PVC pipe penetrations through the floors.

Board engineer Fuentes inquired if there is any other function for the parapet other than being decorative. Mr. Fuentes inquired if there is anything proposed to be mounted on the roof.

Mr. Solomon stated the parapet is just a stud wall so that the heights will be varied across the front. It's for decorative relief for the expansive wall. Mr. Solomon stated they are not proposing any air conditioning or condensers, other than exhaust pipes, they are not proposing any to be on the roof.

Mr. Steinel inquired if NFPA standard 13R or standard 13 will be used for the sprinklers. Mr. Steinel stated they built the Avalone apartments in Edgewater with 13R to code and now it's a big parking lot. The apartments burned down. Mr. Steinel inquired how much weight can the full balcony in the back take. Mr. Steinel stated he can see a fireman go to the back using a ladder, use it as a means of egress, stand on it and maybe bring 3 or 4 people out of the unit onto that. Mr. Steinel inquired if that is going to support them or collapse under them. Mr. Steinel inquired about the void spaces being left alone and not sprinklered. Mr. Steinel inquired if the picture of the rendering of the front of the structure is

approximately the way the parking area is being laid out. Mr. Steinel stated it's going to be problematic for the fire department. They are going to get one chance in pulling in and who goes in first. He stated there is no moving once the fire department is in and that would be a question for the fire chief. Mr. Steinel stated they should invite him.

Mr. Solomon stated 13R will be used, but they won't have any void spaces over 12 inches deep. Mr. Solomon stated they are going to extend the floor structure out. It's only 6 inches deep. It will be designed to support live load. Mr. Solomon stated he will check the code with the fire marshall to see if it's required.

Mr. Stein inquired if the owner would be agreeable to fully sprinkler including the voids.

Mr. Rosenberg's response was yes.

Mr. Solomon stated, yes, it's similar to what will be completed.

Mrs. Berger asked what is the noise suppression between the town houses. She inquired if there is going to be a patio in the back. She requested to see a rendering of the proposed patio. She stated each town house each is going to be identical. Mrs. Berger inquired about the dimensions of the patio.

Mr. Solomon stated they are going to exceed the requirement by code to prevent sound transmission. Mr. Solomon's response was yes. Mr. Solomon stated that is correct. Mr. Solomon shared on the screen a rendering of the patio for each town house. They are all the same size, even though they are staggered. The patio will be 10x8.

Mr. Smith inquired if there will be handicapped parking. Mr. Smith inquired if it is required to have it in a condo complex. Mr. Smith inquired if it is necessary to be approved by the state to be a condo association. Mr. Smith stated he agrees with Charlie about it being problematic for the fire truck to get in and out. There has to be a better plan. Mr. Smith stated if the side of the building isn't going to be shoveled, there is going to be a problem if there is a fire.

Mr. LaMothe stated they can fit a handicapped space, but he doesn't believe it is required.

Mr. Rosenberg stated nine or fewer units do not need to be registered with the state.

Mr. Stein stated they need to have the fire chief come testify for the board. Mr. Stein stated they will continue hearing the application. They will hold the fire questions for the Bergenfield fire chief for guidance. He will be invited.

Mr. Nunez inquired what happens if someone who is older and qualified is interested in the property, and if they will be denied. Mr. Nunez stated they can't discriminate if someone is handicapped or older. Mr. Nunez inquired where the mechanics room is. Mr. Nunez inquired if there is going to be a central air system. Mr. Nunez asked if the condensers are going to be good for sound. Mr. Nunez inquired if the units are ADA compliant or if it is possible to change a unit to be ADA compliant for somebody who might need that service.

Mr. Rosenberg stated these are market rate units sold to anyone who wants this kind of unit suitable regardless of their age.

Mr. Solomon stated it is on the second floor of each unit, opposite the staircase. It's in the hallway between the living room and the kitchen. Mr. Solomon's response was yes. They are proposing to put the

condensers in the rear yards of each unit. They each have their own condenser at the rear. They are going to select a model that has the lowest decibel.

Mr. Solomon stated yes, they would need to do a chair on the stairwell to access the upper levels. They can make the bathroom on the main level handicapped accessible. They can enlarge the doors, if required. Mr. Solomon stated they will use offset door hinges for clear access to each room.

Mr. Stein stated in order to make them adaptable, they also have to change the cabinetry, where there are no cabinets underneath the countertops. The doors must swing out and there has to be a 5 ft. turnaround. Mr. Stein stated he's not sure if by law there are required to have these apartments.

Mr. Rosenberg stated he doesn't think they need to be. If a potential purchaser were handicapped, he is sure the owners would upgrade the units to be ADA accessible and compliant.

Mr. Solomon stated the town homes are the same code as a single family residence. The units can be adaptable during construction, if needed.

Mr. Friedman inquired what is the ceiling height on each of the levels. Mr. Friedman asked how many stairs would there be between each level. Mr. Friedman stated it's doubtful a retiree is going to find a housing attractive where there are so many steps to get from one level to another. Mr. Friedman inquired if he were to buy unit 4 and wanted to have an outdoor barbeque and outdoor furniture to entertain, is there sufficient room in the rear of the unit to conduct those activities.

Mr. Solomon stated they are proposing 8.6 ft on the garage level and 8 ft. ceilings on the upper levels. Mr. Solomon stated there are 14 stairs. The units are designed with 16 steps but can be adjusted 7 inches or 14 steps and 8 inches. Mr. Solomon stated a unit is 25 ft. from the end to the unit to the property line. There is a 8x10 patio outside the sliding glass door.

Questions from residents within 200 feet:

Emuran Saily, 80 E. Central Ave, stated he doesn't think the units can be ADA compliant if the ceiling is 8.6 ft. with 14 stairs. Mr. Saily inquired if there will be any compensation for the homeowners who live around the town homes because their property value is going to go down.

Mr. Stein stated they are not required by law to provide ADA compliant units. It's up to the owner and not a concern for the board.

Mr. Solomon stated he's not qualified to answer that question.

Mr. Stein stated Mr. Saily can make his statement during the comment portion that he feels the neighbors should be compensated. It's not a question they are qualified to answer or need to answer.

Veronica Cabrera, 91 Hickory Avenue, inquired how many people are going to live in each apartment. Ms. Cabrera inquired if this project will create problems for the schools in town. Ms. Cabrera inquired about the trees and if it will be a problem for her roof.

Mr. Solomon stated they designed a two bedroom townhouse. He can't predict how many people will be living there. Mr. Solomon stated he's not qualified to answer that question. He's not a planner.

Mr. Stein stated that's more of a comment, not a question. Mr. Stein stated she can ask that of the planner when he testifies, probably at the next meeting.

Mr. Rosenberg stated that Mr. LaMothe had indicated there would be no impact.

Constantina Meis Rosen, resident, requested clarification that the people living in the units would be viewing the neighbor's backyards.

Mr. Solomon stated that is correct.

Santamaria Montalbano, 64 E. Central Ave, inquired if there is a back door or is it just a sliding glass door. Ms. Montalbano inquired if you are in the backyard, you have enter through the sliding glass door because they are locked.

Mr. Solomon stated there is one door in the front and one sliding glass door in the rear. Mr. Solomon stated that is correct. It's a standard residential patio sliding glass door.

Questions from residents beyond 200 feet:

Stephen Carmona, 20 Momar Drive, inquired where visitors would be parking. Mr. Carmona inquired if the residents would keep the garbage containers in the garage if the town is going to pick up the garbage. Mr. Carmona inquired where would the dumpster be.

Mr. Stein stated there was testimony that it would be a private carter only. There is no place to put the garbage containers on the street. Mr. Stein stated, should the application be approved, it will be in the resolution that it will be private carting only.

Mr. Solomon stated there is a dumpster area designed in the front of the driveway.

Mr. Rosenberg stated the dumpster area would be in the interior of the driveway. There is nothing along the sidewalk or the public street. Nothing is visible.

Carolyn Schmelz, resident, stated there could be 6 families who move in and they each have two children. There would be a large amount of people if everyone decides to go outside and barbeque which was once a one family residential home. She inquired what the sound barrier is for the neighbor's that live behind them and to the side since they aren't used to having potentially 24 people living there versus a family of 5 or 6. Mrs. Schmelz inquired if trees are going to keep the noise down when there are 6 condensers, 6 families.

Mr. Solomon stated the engineer designed landscaping and a fence around the property. He can't testify to the number of people living there.

Daniel Van Hoorn, 63 E. Central Ave, inquired if it was testified that the office can be made into a bedroom. He asked what would stop someone from making the office into a bedroom. Mr. Van Hoorn stated they are not limiting it to who they are selling it to. He again inquired what would stop someone from making the office into a bedroom.

Mr. Rosenberg stated no, that was not what he said and was not correct.

Mr. Solomon stated the office is designed for young couples that commute and due to COVID-19, a lot of people need an office to work from home. They designed the town home to the 21st century if someone needs to work from home. The office is away from family distractions. Mr. Solomon stated he doubts if anyone would put a bedroom there if there is flooding in the area. Mr. Solomon stated there isn't a basement. He can't testify to how people are going to live in their house. Mr. Solomon stated they would have to apply for permits to make the office into a bedroom and would be denied, as it is not permitted.

Mr. Solomon stated that is not their responsibility. They can't testify to what people are going to do illegally in the future.

Mary Hernandez, 25 Birch Ave, inquired if there is a requirement for low income housing. She inquired how they can justify building 6 town houses where only 2-4 houses are supposed to be. Ms. Hernandez requested clarification that DR Investors LLC was aware that the area was zoned for 1-2 story houses and they are not surprised to find that they needed variances.

Mr. Solomon stated they don't know.

Mr. Rosenberg stated that question is for the planner. Sure, that doesn't stop them from making the application.

Marie Delarche, 85 Levitt Ave, inquired if there is any concern of how much natural light it's going to block in all of the backyards as it is taller than all of the surrounding buildings.

Mr. Solomon stated the rear is only 28 ft. high and under the maximum height requirement in the zone. The rear setback also exceeds their requirement for the zone. The building conforms to the zoning which accounts for that.

Mary Sullivan, resident, inquired if there is a misplacement of notation regarding the patio on the plans. Ms. Sullivan inquired if the compressors are going to be in the 6 ft. area. She inquired if there will be any restrictions on what will be in the backyard (grills, swing set, etc.). Ms. Sullivan inquired how is internet, Fios, cable going to be provided to the tenants and if there will be any roof antennas.

Mr. Solomon stated there might have been a drafting error. The patio is going to be 8x10 as testified by the site engineer. Mr. Solomon's response was yes.

Mr. Rosenberg stated the condominium master deed has not been drafted yet. It is within the pervue of the board if they want to impose some kind of limitations. They would have to incorporate that into the master deed and have it reviewed by the attorney.

Mr. Solomon stated all of the electric and cable will be underground. It would be a restriction of the board if they wanted to impose.

Melissa Naylis, 21 S. Taylor Street, inquired if there is a proposed elevator for the building. Ms. Naylis requested clarification if each town home has three floors and if each floor has 14 steps.

Mr. Solomon stated there are no proposed elevators. Mr. Solomon's response was yes. He designed it between 14-16 steps depending on the riser.

Mr. Smith stated he was a little confused with page 5 of the application packet. The affidavit that was notarized has Claudio Ramirez as the owner and residing at 153 Merritt Avenue. On the top, the name of the applicant is C.R. Restoration, LLC. The next page has DR Investors LLC. Claudia is the manager and member of DR Investors LLC. Mr. Smith inquired if Ms. Ramirez and Cesar Ramirez are going to testify. He is a little confused about the two different names and would like to hear from them.

Mr. Rosenberg stated it's all one family. They were not intending to testify. One is the applicant and one is the owner.

Mr. Stein stated it's their prerogative if they want to testify or not. Mr. Stein stated they are coming back next meeting, 5/3/21, with no further notification necessary. The fire department will be here. Mr. Rosenberg is going to find out about the handicapped compliance.

Mr. Stein stated there needs to be another special meeting for 145 West Main Street. He would like to poll the board for a date for the special meeting.

Mrs. Berger stated they have put in enough extra meetings that at this point she would like to propose to just have one meeting a month.

Motion made by Sara Berger, second by John Smith to have just one meeting a month.

Mr. Steinel asked how much time does Mr. Capizzi need to get his witnesses to testify.

Mr. Capizzi stated there is one witness left, planner Mr. David Spatz. His testimony should be ½ hour to 45 minutes.

Mrs. Berger stated residents still have questions for the last person who presented. The 45 minutes turns into two meetings with questions.

Mr. Stein stated they are going to limit the questions to 5 five minutes per person and no one can come back a second time.

Mr. Wenger stated now that a person has hired someone in opposition, they have a right to cross-examine everyone.

Board attorney Oh stated the cross examination can only be done with the experts that are testifying and not any previously testified experts. The attorney for the resident can only cross examine the planner who is about to testify at the next meeting. Matthew Capizzi is not an expert. Technically, they can.

Mrs. Berger stated they can always go back and ask Matthew Capizzi questions. Mrs. Berger inquired if they can ask Matthew Capizzi questions. Mrs. Berger stated she is sure the lawyer will ask those types of questions of Mr. Capizzi. Mrs. Berger stated she is sure they intend to take them to the courts. The board has put in a lot of time and effort which they are not getting paid for. She feels they should not have two meetings a month.

Mr. Capizzi stated the members of the public couldn't ask him questions. He's not a sworn witness with an expertise. He can answer questions about legal and procedural issues that are in his purview. Mr. Capizzi stated he doesn't know what areas of inquiry he intends to get into.

Mr. Smith agreed with Mrs. Berger. He stated he has adjusted his appointments around this application. He stated in April and May, he has many appointments with the VA and made the appointments based on the zoning board scheduled meetings. Mr. Smith stated he had to cancel appointments twice due to special meetings. He stated trying to get another appointment with the VA is next to impossible.

Mr. Friedman stated he doesn't like having two meetings. On the other hand, they have an obligation to hear whatever applications are being filed for variances and to resolve those within the statutory period of time. If that can't be done in one meeting a month, then he thinks they have no choice but to have two meetings a month to make sure they can properly dispose every application that's filed. Also, he presumes that the meetings will be carefully controlled as the chairman tried to do tonight by limiting the repetition and streamlining them as much as possible. Mr. Friedman explained if there is going to be continued

development in the community and if there are going to be additional complex applications that are going to be filed, the zoning board has the obligation to accept, hear, and rule upon those applications whether it can be done in one meeting or more than one meeting.

Mr. Wenger stated the board has an obligation to speedily bring this to a resolution. He stated part of the problem is that people have slowed down the process by asking their questions and that is not fair to the applicant, to be forced to wait upwards of a year because they are forced to sometimes answer the same question or hear comments repeatedly.

Mr. Steinel stated they have a obligation to the public, which the board accepted. They have an obligation to the applicant. It doesn't matter if there is a special meeting or not. There is only so much work you can put in in so much time. Mr. Steinel stated they are hurting homeowners with simple jobs because they are trying to turn in their applications. They have always taken pride in helping the people who live in Bergenfield and get something done. Mr. Steinel stated whether they do it in one meeting a month or two meetings a month, it is not going to change the hours that is going into it. He would rather just have a special meeting and plug through one night.

Mr. Nunez stated having two meetings a month is sometimes an inconvenience, especially during the pandemic. The board doesn't share anything personal here. They serve the community and its for free. Some of the professional people showing up on the board are paid professionals. Time is valuable to the board members. Mr. Nunez stated they try to be as professional as they can every time they take an application. He is experiencing a lot of hardship in his own life currently and he has to stop things to give his time to attend two meetings a month.

Mr. Morel stated the group has spoken about the importance of their duty and the importance of the community being allowed to speak. Even though it is an overall burden for those applying, they are seeking support through the zoning board. The community themselves want to be heard and give their opinion on the situations that impact potential zoning changes. It becomes a general burden. However, he does see a necessity to do multiple meetings just to get it done.

Mr. Morf stated he can't do two meetings.

Mrs. Berger stated when the community sees there is a special meeting, they get their questions together and they are entitled to that. However, they are fostering, delaying the whole process by having a special meeting for that. They know that it's not done yet and there will be meeting after meeting as opposed to saying they are going to have one meeting a month.

Mr. Stein stated and read that " pursuant to section 103 of the borough ordinance 1123, special meetings may only be held by the call of the chair or at the request of any two members". He thinks they owe it to the public, residents who can't get their applications heard because this application has been taking too long to be heard, to call a special meeting which is within his right. He would like to have two people support him. They owe it to the town and it is their obligation. They owe it to the applicant and to the members of the town to have a special meeting. Board members Marc Friedman and Amnon Wenger supported the chairman's call for a special meeting.

Mr. Stein stated he tried to control the meeting tonight as best as possible. They limit the questions to the question period to the topic that was discussed. They will limit time to how much people can speak within legal limits. They need the cooperation of the applicant and the residents so everyone can be treated fairly.

Mr. Wenger stated at least 10 days are needed to notice.

Mr. Stein suggested having the special meeting April 27th, 2021.

Mr. Wenger stated he is not available April 27th and won't be back until April 29th, 2021.

Special Meeting for 145 West Main Street on April 27, 2021

All ayes. None opposed.

Amnon Wenger stated he won't be available that day, but will catch up by getting the transcript or listening to the video.

Mr. Stein stated Mr. Capizzi will take care of the notification for the special meeting on April 27, 2021 at 8-11pm with strict guidelines within the limit of the law.

Mr. Stein read the letter received today from Lieberman Blecher and Sinkevich into the record. Mr. Stein stated unfortunately, there is no time for verbal communication. Mr. Stein stated they are not legally bound and hopefully they will have time for verbal communication at the next regular meeting.

Mr. Smith requested Mr. Capizzi send the planner's report.

Mr. Capizzi stated the planner does not have a report. He is just going to give his testimony based on what the other professionals have testified to.

Mr. Friedman asked Mr. Capizzi if he could provide a summary of what the planner is going to testify to. Mr. Friedman stated that will help to accelerate the conclusion of this.

Mr. Capizzi stated he can speak with Mr. Spatz and see about preparing a memorandum.

VERBAL COMMUNICATION

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

MOTION TO ADJOURN MEETING

Motion By: John Smith

Second By: Amnon Wenger

All ayes. None opposed.

Meeting was adjourned at 11:07pm.

Respectfully Submitted,


Hilda Tavitian, Clerk
Zoning Board of Adjustment