

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TELECONFERENCE VIA ZOOM
August 2, 2021**

Chairman Stein called the meeting to order at 8:06 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 July 26, 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 regulations that are set forth in Bergenfield and zoning ordinance. Typically, we hear two types of variances. The first is whether an applicant can vary from land use restrictions including rules on sideline distance, height, and lot coverage. That is commonly called a bulk variance. The second type of variance is a use variance, where an applicant wants to use the property for a purpose not permitted under the zoning ordinance in that zone.

In these cases, the applicant has the burden of meeting certain criteria set forth in the Municipal Land Use Law which is available online. The Borough's zoning ordinance is also available online. We carefully listen to the testimony, including objectors, and review all relevant documents. If a majority of the Board concludes that the applicant has satisfied those criteria for a bulk variance, we must grant the requested variance. Approval of a use variance requires five affirmative votes.

Chairman Stein stated he noticed Mr. Capizzi is on. He was under the impression Mr. Capizzi wasn't going to join the meeting until 9:30-10:00pm. He inquired if Mr. Capizzi able to join now.

Mr. Capizzi stated it is up to the Chairman. He had originally organized in another town to be heard early and was just told they are putting him on the back end.

ROLL CALL

Present: Shimmy Stein, Richard Morf (joined at 8:21pm), Sara Berger, John Smith, Charles Steinel, 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 – July 12, 2021

Motion By: Marc Friedman
Second By: Amnon Wenger
All ayes. None opposed.

CORRESPONDENCE

None.

OLD BUSINESS

1. Resolutions:

Joseph & Bernice Mandel, 17 Westminster Avenue, An addition

Motion By: Chairman Stein
Second By: Board member Smith
All ayes. None opposed.

Cesar F. Ramirez, 83 Hickory Avenue, Build six townhouses

Motion By: Chairman Stein
Second By: Board member Smith
All ayes. None opposed.

2. **Application:** 145 West Main Street, LLC
145 West Main Street
Change of use to a multi-family dwelling R5 zone to RM zone
(Carried over from June 29, 2021 Special Meeting)

Board member Smith inquired about the public being able to speak again.

Mr. Mondello stated they are done with that portion and inquired if board members Steinel and Nunez are eligible to vote. Mr. Steinel was absent at the 11/18/20 meeting. He is positive he sent him the audio and Mr. Steinel had indicated that he did listen to it.

Board member Steinel stated Mr. Mondello had sent it to him, he listened to it, and at the following meeting he had put that into to the record.

Mr. Mondello stated board member Nunez was absent for the 10/19/20 meeting and inquired if he had asked the board's clerk, Hilda, for either the recording or CD. Mr. Mondello stated Mr. Nunez was absent for the 2/24/21 meeting and if he requested the recording from the board clerk. Mr. Mondello stated Mr. Nunez is not eligible to vote on the application. He needed to follow the same procedure he did for the October 19, 2020 meeting. It appears board member Nunez was late to the 5/25/21 meeting. He's already disqualified due to his busy schedule and was not able to listen to the 2/24/21 audio.

Board member Nunez stated he received the recording and listened to it. Mr. Nunez stated he did not.

Mr. Nunez stated he did receive CD's for those dates to listen to. He did not request them, but he did receive them. Mr. Nunez stated if he received the CD, then he did listen to them. He stated he always reads the minutes online. Mr. Nunez stated if he has the CD, he listened to it but needs to verify it. He always listens to anything he receives from the town.

Mr. Mondello asked Mr. Nunez if he listened to the 2/24/21 CD. Mr. Mondello stated reading the minutes would not suffice. Mr. Mondello stated Mr. Nunez had previously stated he did not listen to the audio and if he is now withdrawing that statement. Mr. Mondello stated as long as Mr. Nunez is sure he listened to the February 24th, 2021 meeting, he is eligible to vote.

Mr. Capizzi stated Mr. Nunez is uncertain if he listened to the recording of the February meeting and is looking to see through his files. If he is not certain, Mr. Capizzi stated he prefers to have an alternate, who has been in attendance at all of the meetings, vote in his place.

Mr. Nunez stated he has in his possession the 2/24/21 CD and has listened to it.

Mr. Mondello stated there is an indication that Mr. Nunez was late at the 5/25/21 meeting. Mr. Mondello asked Mr. Nunez if he has the CD of that meeting and if he listened to it.

Mr. Nunez inquired if it is known how many minutes he was late at that meeting because he doesn't believe they were discussing 145 W. Main Street when he was late.

Chairman Stein stated they can look at the minutes and see if that was the first application discussed.

Mr. Mondello stated May 25th, 2021 was a special meeting. This application was right out of the gate. Mr. Mondello stated there is an indication of the 6/29/21 meeting minutes that Mr. Morel was late. He asked Mr. Morel if he obtained the CD and listened to it. Mr. Mondello stated Mr. Morel stated he is alternate member, but it should be cleared up for the record.

Board member Morel stated he did not receive a CD for that particular meeting. He didn't recall how late he was, but it would have only been a few minutes. He hasn't been late to a meeting for more than a few minutes. He most likely didn't miss anything associated with the actual application.

Mr. Nunez stated he does not have a CD dated 5/25/21 and has not seen the minutes from that meeting either.

Mr. Mondello stated Mr. Nunez would not be eligible to vote on this application because he was late to the 5/25/21 meeting. The alternate member, Mr. Friedman, who was present for all the meetings would be substituted in. Mr. Mondello stated the problem is they don't know what that small time period is. These were special meetings that don't have resolutions. The special meetings start at 8:00pm and are turned over to Mr. Capizzi.

Mr. Morel stated he does not recall board members who are a few minutes late to a meeting being required to obtain a recording for that small time period. Mr. Morel stated they should identify that anyone who is late should be noted at the time they enter the meeting. They would know what time the member arrived at. He inquired then why it is a problem to identify any information at any event was missed. It is inaccurate to identify someone as missing an entire meeting when they were only a couple of minutes late. He is being penalized for only a few minutes. It should have been noted at that time that individual needed that information. The information you are requiring is now after the fact. It does shine a dark eye on the voting process.

Mr. Stein stated they always do that. They do note when a member comes in to the meeting. Mr. Stein stated moving forward they can do it. Right now, based on the law, Mr. Nunez can not vote.

Mr. Mondello stated if you miss a few minutes of what either comes out of Mr. Capizzi's mouth or Mr. Lieberman's mouth, or any of the witnesses, you are not eligible to vote. Mr. Mondello stated the actual time is always placed in the minutes. This is the normal thing that needs to be done before a vote. It has to be determined who missed meetings and if they listened to the audio recordings.

Mr. Lieberman stated it was a pleasure appearing before everyone on this important application. It is an important application where an applicant is threatening to destroy the nature and integrity of a community. Mr. Lieberman stated it is important to him because he grew up in New Milford and he used to go to Bergenfield all the time and knows Bergenfield very well. Mr. Lieberman stated the board is going to be asked to evaluate competing testimony and be judges. Mr. Lieberman stated you can't be in favor of an application if you find the other side more credible. He stated the experts presented by the applicant and the case presented by the applicant are not credible. It is important the record reflects the board did not find any credibility with the application. Mr. Smith had asked Mr. Luglio to explain a sentence in a study he had performed reflecting that Bergenfield was an urban community. Mr. Smith had pointed out that there was a NY Times article which described Bergenfield as a suburban community and Mr. Luglio had disagreed with that. Mr. Lieberman stated Bergenfield is a suburban community, not an urban community. It means either the traffic planner never came to Bergenfield or was saying what he needed to say to support his client's case. He's not entitled to credibility. The traffic engineer's testimony needs to be set aside. The same can be said of the planner. Mr. Lieberman stated when Mr. Spatz provided his prove as to why the D variance should be approved, he said that the proposal followed objectives A, E, and F of the municipal land use plan. Mr. Lieberman stated section A as he testified refers to an upgrade of substandard of properties. The problem is there are no substandard properties in this community. This community is an older, thriving community. It is a historic community and not a substandard community. Purpose A should be discarded and doesn't make sense. The same is with purpose E. Mr. Lieberman explained purpose E indicates that projects with appropriate population densities are to be encouraged. The only prospect of an inappropriate density in that community is this project. This project has a density far above than what is permitted in the zone. It doesn't make sense what he said. Mr. Lieberman stated if this project is approved, then you would have an inappropriate density. Mr. Lieberman stated Mr. Spatz had said that this project would provide a good transition between the school and single family homes. Mr. Lieberman inquired since when a transition is needed between the school, the church, and single family homes. Mr. Lieberman asked since when a transition is needed between schools, churches, and single family residences. If this project was approved, you would need a transition from it and a single family residence.

Mr. Lieberman stated Mr. Rodriguez, Mrs. Rosado's planner, had testified that a D1 variance was needed as well as a D5 variance for density which was not properly noticed. He also had said that according to the municipal land use law and Bergenfield's ordinances, a D variance can't be granted if there is a substantial detriment to the public and impairs the intended purpose of the zoning plan or zoning ordinance. Mr. Lieberman stated Mr. Rodrigues had looked at the 2015 reexamination report of the master plan and had stated the #1 goal was to preserve existing residential neighborhoods. He had stated this project was completely out of character and nature with the rest of the neighborhood. Therefore, it would be in odds with the #1 goal of the 2015 reexamination report of the master plan. Mr. Lieberman stated Mr. Rodrigues had said goal #5 was to discourage deviations from established land use patterns. In the midst of this single family residential neighborhood, this would be a deviation. That is credible and makes sense. It is an objective of the master plan to encourage development in the locations in the densities that are compatible with existing developments. Mr. Rodrigues had stated this project was not compatible. Mr. Rodrigues also observed that if approved, the density of this project would be ten times the permitted density of single family developments. Mr. Lieberman stated it doesn't fit into the character

of the neighborhood, is inconsistent with preserving the current zoning ordinances, and should not be approved. Mr. Lieberman stated this use variance is 50 pounds of mass in a 10 pound bag. It's overdevelopment, inconsistent, the experts from the other side were not credible, and they did not meet their burden of proof. He asked the application be denied.

Mr. Capizzi thanked the board for their time. This would be the ninth hearing on the matter. He appreciates the board's patience and the public's participation. The public participation has been meaningful to the applicant and the plan set reflects it. A lot of the concerns raised by members of the public have been addressed. Mr. Capizzi stated the application is 13 units, 11 one bedroom units, 1 two bedroom unit, and 1 three bedroom COAH unit. They are all modestly sized units providing standard amenities, including a washer and dryer. Mr. Blake had testified that the housing units are a nice opportunity for a senior citizen looking to remain in the municipality or individual or young couple looking to remain in town or for a apartment to reside in Bergenfield. The thirteen units will be serviced by 24 parking spaces, where 24 is required. Mr. Capizzi stated they are providing the required onsite parking. The parking spaces are allocated for one space for the one bedrooms, 2 spaces for the two bedroom, 2 spaces for the three bedroom, 7 spaces for guest parking, and for 1 space with ADA parking. Mr. Capizzi explained when Mr. Luglio was speaking about urban versus suburban, he was attempting to justify whether the site would be able to operate with less than the required. But, that circumstance is no longer required as they reduced the unit count proposed. The concerns of urban or suburban are no longer relevant. Mr. Luglio's testimony about classifying Bergenfield as urban was under a traffic planning lens, nothing more nothing less. Mr. Capizzi stated the improved lot coverage is 66%, where 40% maximum is allowed. The maximum height allowed is 30 feet or two stories. Their proposal is 32 feet, three stories. The front yard setback along West Main Street required is 25 feet, where they are at 23 feet with about 15% of the building encroaching into the front yard setback. The rear yard setback required is 25 feet, where 21 feet is proposed. Mr. Capizzi stated the use variance is for a residential development. The people will frequent the downtown, go to the grocery store, houses of worship, and like any other residential home on W. Main Street. The project complies with the right side yard setback. It's five times what's required, 25 ft. versus 5 ft. required. The front yard setback along N. Franklin Avenue is complying. The building coverage complies and the required amount of on street parking complies. The civil engineer was heard on three different occasions, the architect on four different occasions, traffic engineer on five different occasions, and the planner on one occasion. Mr. Capizzi stated as far as testimony in opposition, you only heard from a planner. There was no competing testimony on anything the engineer, architect, or traffic engineer had to say. The board engineer verified the testimony provided by the civil and traffic engineers. It is an exaggeration and total mischaracterization to say that the applicant's professionals have no credibility.

Mr. Capizzi stated the building that currently exists on the site is unsightly and in disrepair. The lot is located in a unique location, with frontage on N. Franklin Avenue and W. Main Street. The public highlighted various concerns about the lot's location in conjunction to N. Franklin and W. Main Street. Mr. Capizzi stated with regards to frontage on N. Franklin Ave, the concerns raised dealt with the day to day operations of Franklin School and how the road is closed from approximately from 8:00am to 3:00pm, and having a driveway on N. Franklin Ave would result in some form of impact with the day to day operations of the school. There were concerns of availability of parking along N. Franklin Avenue. Mr. Capizzi stated in regards to concerns with having frontage along W. Main Street, the public illustrated and highlighted concerns about on street parking being limited and nonexistent. Mr. Capizzi stated there were concerns relative to site distances with cars backing out into W. Main Street to come and go from the various residential lots. There were concerns relative to how garbage cans may disrupt site distances and concerns that may pose for children coming to and from school along W. Main Street. The apartment building will propose no access on N. Franklin Ave and the school operations will be uninterrupted. The apartment building proposes a drive aisle on W. Main Street that will allow vehicles to exit out of the site in a head out movement. It would alleviate any concerns of site distances for vehicles

traveling along W. Main Street. The building proposed complies with the building coverage limitations. The concerns of massing are no longer relevant. Height is slightly nonconforming by about 2 feet over what's allowed. This was designed purposely for a pitched roof, which is an overall enhancement to the aesthetics of the building. There won't be any negative impact from the addition of the two feet. The objector's planner had testified that height and traffic were not an issue with the application. The only issue was his view of the appearance of the building. Mr. Capizzi stated the impervious coverage is predominantly under the building. The portion that is not under the building is along the rear property line to provide to an uncovered portion of the parking area. The drainage has been appropriately designed to ensure there will no increase in runoff. The building has been practically laid and will not have any substantial negative impact on the neighborhood and was confirmed by the objector's expert. Testimony was provided that the thirteen apartments can operate sufficiently and safely and coexist in the neighborhood without bringing about any form of detriment. The circulation portion of the property is superior to what you would achieve if three single family homes were developed. The applicant is agreeing to provide a speed bump or a pedestrian signal. The trips associated with the apartment building are less than or equal to what you would achieve with three single family homes. Mr. Capizzi stated there are no impacts on the school system. There would be a certain amount of school children if the property was developed with three single family homes. Three single family homes would have the DPW retrieve the garbage pails and create traffic concerns. The proposed project will have a private hauler cart away the garbage from the rear of the property. Mr. Capizzi had reviewed the zoning ordinance. He stated the public health safety and general welfare is promoted by way of this property and project by way of improved circulation. The drainage system has been appropriately designed. The building is being fully sprinklered and they are agreeing to a condition of servicing the property by a propane generator. The setbacks all comply and the project will provide adequate airway and open space. The building complies with a majority of the bulk variance and those that don't comply are generated by the shape of the lot. The density, although higher than what would be with neighboring properties, results in less school children than a site developed with three single family homes. The building provides a living arrangement that's ideal for seniors, singles, or young couples. They are also providing an affordable housing unit that is considered an inherently beneficial attribute to the project and furthers the borough's plan with the fair share. The lot, size, shape, design of the building and parking area support the development of the property as proposed for thirteen units. Mr. Capizzi stated the proposed plan is a better alternative than three single family homes. Public comment is not testimony. Testimony only comes from witnesses that are qualified. All of the applicant's witnesses were qualified in their respective fields. The applicant satisfied the positive and negative criteria. The benefits of the project will outweigh any of the negatives. There would not any substantial negative impact on the neighborhood. Mr. Capizzi asked the board to grant the application as presented.

Mr. Mondello stated Mr. Nunez arrived at 8:30pm on May 25, 2021. He reviewed the audio and Mr. Capizzi had started speaking five minutes and fifteen seconds into the meeting. Unfortunately, Mr. Nunez is not eligible to vote.

Chairman Stein thanked the board for their patience and coming for extra meetings. The board's work is really appreciated. They took it very seriously and he stated he is sure the vote will reflect that. Mr. Stein thanked Mr. Mondello for his work for the board over the past 15 years. Mr. Stein stated five votes are needed to grant the application.

Board member Steinel complimented the applicant for putting together a team of professionals, listening to the board's and resident's comments. They tried to address the issues and have to be given credit for that. Mr. Steinel stated it was very hard for the residents to understand the difference between a fact and an opinion. Mr. Steinel stated they live in the neighborhood and tolerated us very well in following the procedures. He has lingering concerns with the application in three main areas. The first is the issue with the traffic. He stated what was never discussed or considered by the applicant was that during the process

there was a dramatic change in the traffic pattern. You could no longer make a left onto S. Prospect Ave from W. Central Ave. They banned the left turn. The only way for someone who lives in the area has to go to either Church Street or Main Street, up Prospect Ave to make the left turn. Mr. Steinel stated that has really become a problem since Main Street has a traffic light. It typically takes two cycles and that is with the schools being closed due to the pandemic. Mr. Steinel stated you couldn't get a good traffic study because of that and the problem of Main Street. You are allowed to park on Main Street. Mr. Steinel stated if the building is allowed to be constructed, the additional parking during the day is going to screw things up. The borough is going to have to do something about it and since it is a county road, the county would have to approve it. Mr. Steinel stated the next area of concern is the benefit to the borough. The borough needs good apartment housing and there is none. No one testified to that. He inquired where the benefit to the borough is. Mr. Steinel explained there is an area a few blocks away this type of development is allowed. Lastly, the letters and the video sent did not play into his decision making. It's unfair to the applicant and the board members. They had letters coming from the principal and the superintendent of the schools over the apartment. There were cell towers go up directly across from two school and no one from the Board of Education or the schools ever said anything about building cell towers to the zoning board. Yet, this building generates it and is really disturbing. He is voting against. He doesn't think they proved their case for the D variance. The other variances were met and were minor. The D variance doesn't belong in that neighborhood.

Board member Friedman stated he is going to vote in favor of the motion to deny the variance. He listened carefully to every snip of testimony throughout all of the hearings. Mr. Friedman stated it is his view that the applicant did not satisfy its burden of establishing the positive and negative criteria to be entitled to a use variance. Mr. Friedman stated he didn't find Mr. Spatz's testimony critical with respect to the positive criteria and especially with respect to the negative criteria. There are many reasons for that. Some of the reasons were expressed during the course of him questioning Mr. Spatz. Mr. Friedman stated he has been in Mr. Capizzi's shoes before and is tough to take a loss especially when you have done an excellent job of presenting your case. It's important your client knows Mr. Capizzi did an excellent job. He stated he is appreciative of Mr. Capizzi's and the client's effort of continually changing the plans to address the very important concerns raised by the public. He is persuaded that his client fell short on the use variance.

Chairman Stein stated a yes vote is to deny. A no vote means to accept/approve. Chairman Stein stated he has watched Mr. Capizzi since day one in his career and is so impressed. He hopes to see Mr. Lieberman again. He thanked everyone for what they have done. He thanked all the neighbors taking the time out of their schedules. The applicant cut back on the size of the building, reduced the number of apartments, and got rid of a variance. Nevertheless, it is still too big and would not want it on his block.

Board member Wenger stated he is disappointed. Mr. Capizzi did an excellent job. There isn't anything else he could have done. It is just the sentiment of the town at this point.

Motion to Deny Application

Motion By: John Smith

Second By: Marc Friedman

6 ayes. 1 opposed.

A recess was taken at 9:22pm. The meeting resumed at 9:35pm.

NEW BUSINESS

1. 40 Hickory Sixboro, LLC
40, 44, 46, and 48 Hickory Avenue

18 unit townhouse development and 4 garden apartments

Nylema Nabbie, Esq. from Cleary Giacobbe Alfieri Jacobs LLC, attorney for applicant, stated they are proposing a multi-family project, with a total of 22 units. Gerry Gesario would be the first witness. Ms. Nabbie stated his client is proposing to consolidate the lots and build 18 townhomes and 4 apartments. There will be 20% set aside for affordable housing. The use is not allowed in a R5 and R6 zone. They are requesting a D1 variance and D6 according to RSIS standards. Ms. Nabbie explained there are some bulk standards that are nonconforming. There are four witnesses on tonight.

Gerard Gesario, licensed professional engineer, shared on the screen aerial exhibit, A-2, taken from Google Maps dated June 3, 2021. The project site is highlighted in yellow. The application consists of four lots identified as lots: 9, 10, 10.01, and 11 within block 30. Currently, each of the lots are developed with single family homes. The overall area of the lots is 38,578 sq. ft., which is .89 acre. Mr. Gesario stated the site is located in the R5 zone and townhomes are not a permitted use in this zone. The site is surrounded by other single family homes. There is a three story multi-family development further to the west. Mr. Gesario showed where the multi-family development was on the aerial map. He then shared the existing conditions plan on the screen. He stated it highlights the conditions of the property as they exist. Three of the homes front on Hickory Avenue and the fourth home is in the rear. The lots will be consolidated and there is an ingress/egress easement. The easement will be eliminated when the lots are consolidated. The existing homes, driveways, and patios would be demolished with the new development. Mr. Gesario stated the site is relatively flat. He shared Exhibit A3, Site Exhibit, on the screen showing a color version of the site and landscape plan. It shows the proposed development of 22 units divided evenly within two buildings. Mr. Gesario explained they are proposing a 24 feet wide private drive off of Hickory Avenue. Their curb cut at the Hickory Ave curb line is 29.5 feet and they are seeking relief. Eight of the twenty-two units are townhome style units and four apartment style units. There will be parking for forty vehicles onsite with garage spaces, with a driveway in front of the garages. Residential site improvement standards for this development requires 52 spaces and they are 12 spaces shy. They will be installing new sidewalks and new curbs along the frontage. Mr. Gesario stated the trash will be picked up by a private hauler. There will be 2 parking spaces allocated for each unit, for a total of 36 parking spaces.

Mr. Gesario stated the project does require relief. It's a use variance and townhomes are not permitted in a R5 zone. The curb cut allowed is 25 ft. and they are requesting 29.5 ft. The RSIS parking spaces required are 52 spaces and they are proposing 40 spaces. In addition, the front yard setback is 25 ft. required, they are proposing 11.1 ft. The required rear yard setback is 25 ft., they are proposing 11.1 ft. 30% building coverage is allowed and they are proposing 71.3%. The building height is 2 stories or 30 ft. allowed and they are proposing 3 stories and 42.94 ft. The applicant is seeking D1 and D6 variances. There will be one parking space allocated for each of the affordable housing units. The access rode on all of the driveways will drain towards the center of the site where there are two inlets that will collect runoff. All the roof drains will be collected separately and taken underground to a pipe system behind each of the units. The runoff will be collected and sent to a proposed underground pipe retention system. Mr. Gesario stated because the site is increasing its impervious coverage, there will be an increase in runoff. The requirements for the retention system proposed will mitigate the runoff such that after development the peak rate of runoff will be at a minimum of 50%, 75%, and 80% of the peak rates of runoff calculated for existing conditions. The design will meet requirements for a NJDEP major development with regard to peak quantity of runoff mitigation. They are also proposing some infiltration to promote ground water recharge. They received the comments and report, dated 7/27/21, from the board engineer regarding the drainage report and will work with the board's engineer to address all of his concerns. They are not changing the grades onsite much. The most significant is in the eastern corner. There is a small retaining wall, 2.4 ft., proposed on the eastern property line. There is no proposed signage. They are proposing to light the access road with three ornamental fixtures, one at the entrance, the second will be at the private

access road, and one midway to the access road. The lamps will be LED. The utilities are available within the right of way on Hickory Avenue. They will be running main service lines from Hickory Ave and down the access road. They are proposing a significant amount of landscaping. Mr. Gesario stated there will be 4 street trees along Hickory Avenue, 6 smaller ornamental trees along the access road, a dense evergreen screen around the east, south and west property lines, and various smaller shrubs to be planted in grass areas along the frontage of the units.

Board engineer Fuentes stated the presentation was thorough in describing all the details. Mr. Fuentes stated the proposed for the minimum front yard setback is 9.1 ft. and the minimum required is 25 ft. The existing properties are within 15-33 ft. setback from Hickory Avenue right of way. The applicant is requesting a building coverage of 71.3 ft, where the maximum allowed building coverage in the R5 zone is 30 ft. Mr. Fuentes stated no other residential zones within the borough are allowed coverage greater than 65%. Minimum rear yard setback proposed is 11 ft., where a minimum 25 ft. setback is required. The existing structures comply with this setback. The maximum building height is in need of a building variance. They are proposing 42.9 ft., where 30 ft. is allowed in the R5 zone. Most of the existing dwellings along Hickory Avenue are 1 ½ to 2 ½ stories. Additionally, there was a curb cut variance requested. A minimum of 51 spaces is required per RSIS standards, where they are proposing 40 parking spaces. Mr. Fuentes explained as per RSIS there is a total of .5 spaces per townhouse. There should be a total of 9 guest spaces included with the proposal. The applicant's proposing a fire hydrant at the end of the driveway. The applicant should provide the board as to who will be maintaining the fire hydrant and the emergency vehicle access to the fire hydrant. There are several street trees proposed on Hickory Avenue and is also where one of their main pipes for the sewer system runs through. Mr. Fuentes stated a different location for those trees is warranted. The proximity to the storm pipe usually leads to roots within the storm pipe and failure of the system with time. Mr. Fuentes stated there was a snow removal plan submitted, but would like to see a clearer picture of what the plan depicts. There wasn't a legend included and would like to know where the snow would be stored in the event of a snow storm. Mr. Fuentes stated the private hauler of the trash would come in off Hickory Avenue and collect the garbage along the frontage of each townhouse. The submittal letter indicates that a K turn would be needed at the end of the driveway to exit back onto Hickory Avenue. They have a question as to whether or not that would be a feasible circulation pattern, especially if those four spaces at the end are occupied during the time of garbage collection.

Mr. Fuentes stated the submittal letter indicates there is a fire rescue truck access from Hickory Avenue that would be feasible, but once the truck is onsite they would need to back out approximately 230 ft. to exit out onto Hickory Avenue. Typically, they defer these matters to the fire department as well as any discussion regarding fire stopping fire retardant materials and methods. He suggested bringing on the fire department to discuss those issues. Mr. Fuentes stated the design of the stormwater management was satisfactory for the most part. The inclusion of green infrastructure is the new requirement by DEP for any major development. At the time of issuance of this letter, on 7/27/21, they did not have sufficient time to review the traffic. He does have those comments from the traffic department now. Mr. Fuentes stated the Traffic and Parking Assessment was prepared in a professional manner following the general accepted practices. There was one issue with the Saturday midday peak hour trip generation table, table 3 on the report. It is inconsistent with the corresponding text. They request it be revised and resubmitted so they can make a conclusion as to whether or not the new trips generation will make a significant impact on the adjacent roadway.

Chairman Stein stated the number of parking spaces actually needed is 61 as opposed to 52. If you look at the table, 2.4 spaces are required for each one of the townhouses. There are an additional 8.1 spaces for the garden apartments. If 9 guest spots are needed, then it's 61 spaces. Mr. Stein stated the application should reflect 61 spaces as opposed to 52. Mr. Stein stated the big problem with the other multi-family application on for tonight was with overbuilding. There are fire safety issues amongst other issues with

the application. Mr. Stein, stated in his opinion, this needs to be streamlined. There are a lot of variances being requested and the size of the variances. It is something that should be taken into consideration and see what could be done.

Mr. Fuentes stated he came up with 51. Typically, from RSIS, anything with a .5 or below is rounded down. The total spaces required is 51.1. Yes, that's correct.

Ms. Nabbie stated she is on the board's and the applicant's side. The concerns identified have been discussed. Ms. Nabbie explained that they looked at the RSIS, including the quantity of parking spaces required and the proximity of the subject to mass transit. The traffic planner is prepared to give testimony that the 61 spaces are not necessarily required, but she did not want to speak for him.

Mr. Stein stated this would be the most lot coverage they have in town. It's a huge lot coverage. It is up to the board.

Ms. Nabbie requested to be given a few minutes.

A recess was taken at 10:05pm. The meeting resumed at 10:15pm.

Ms. Nabbie stated she would like to carry this matter to another date and have an announcement made so her client does not have to give notice. It would give her the opportunity to sit down with her client and address some of the concerns raised tonight. She stated she has a conflict that night but her colleague will cover if she can't be present. Ms. Nabbie stated the intention is to confer with the fire department and also with the board engineer in anticipation of the September hearing date.

Mr. Stein stated this application is now adjourned. He inquired if they will be ready for the next meeting on September 13, 2021. Mr. Stein stated the application is being carried with no further notice necessary to the September 13th, 2021 meeting. Mr. Stein stated they will put them in contact with the fire department. There are some big fire concerns.

PUBLIC COMMENT

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

No one came forward.

MOTION TO ADJOURN MEETING

Motion By: John Smith

Second By: Sara Berger

All ayes. None opposed.

Meeting was adjourned at 10:19PM.

Respectfully Submitted,



Hilda Tavitian, Clerk
Zoning Board of Adjustment