

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TELECONFERENCE VIA ZOOM  
OCTOBER 4, 2021**

Chairman Stein called the meeting to order at 8:00 P.M.

**OPEN PUBLIC MEETING STATEMENT**

In compliance 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 September 27, 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 Chairman Stein.

Chairman Stein stated, on behalf of the board, he would like to offer condolences to Sara Berger, a long time member of the board, on the passing of her husband Jerry several weeks ago. He was a lifelong friend of Mr. Stein. He was a devoted husband, father, grandfather, great grandfather, and successful businessperson. He was a long time member of the borough's Planning Board and brought to the board professionalism and insight. He saw the world in a beautiful way, always voted for what was right, and gave support to the other members of the board with his wisdom. He will be sorely missed.

**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.

**ROLL CALL**

**Present:** Shimmy Stein, Richard Morf, Sara Berger, John Smith, Charles Steinel, 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

Chairman Stein stated the application for 75 Hillside Ave has been postponed until the November 1<sup>st</sup>, 2021 meeting. Even though the certified letters went out on time, the publication was only 6 days and 10 business days is needed. No further notice will be given. There will be a publication in the newspaper.

**APPROVE MINUTES OF PREVIOUS MEETING – September 13, 2021**

**Motion By:** John Smith  
**Second By:** Richard Morf  
**All ayes. None opposed.**

**CORRESPONDENCE**

Chairman Stein stated there are the reviews of the applications for completeness from Mr. Fuentes.

**OLD BUSINESS**

1. Resolution: Gary DeMauro, 16 Tyson Place, Convert 2<sup>nd</sup> Floor to Residential

Motion By: John Smith  
Second By: Richard Morf  
All ayes. None opposed.

2. Application: Gazmend Lita  
372-378 S. Washington Avenue  
Change of Use  
Carried from September 13, 2021 Meeting

Mark Madaio, attorney for applicant, stated Chris Blake will discuss the minor revision made to the plan. David Spatz will discuss the planning issues. Mr. Madaio stated the building is principally a commercial structure. The first floor is considered to be B-2 commercial use. It does have one apartment unit. Mr. Madaio stated his client was at the prior meeting seeking to place two additional apartment units on the first floor. It seems to have been met with some resistance from the board based upon the room on the site and the operations at the premises. There will be an alteration to create only one additional residential unit downstairs.

Chris Blake, architect, stated at the last meeting they had presented having two of the commercial spaces converted to residential. Mr. Blake stated the client has indicated that only the rear portion will be converted to residential. He shared on the screen the revised proposed plans dated 9/23/21. The unit in the front corner is a residential apartment and right next to it, there are two commercial spaces.

Mr. Madaio stated there currently is a large vacant commercial space at the rear. The rest of it is commercial space that is somewhat occupied. There is a single residential unit on the first floor that is pre-existing in the lower right hand corner. The commercial space on the far left has already been rented for commercial use. There is a residential apartment in the front north corner and next to it are two commercial spaces that are rented also.

Mr. Madaio stated the commercial space on the far left has already been rented for commercial use. All that's left is the commercial space in the center and the commercial space at the rear. They had originally proposed converting the two commercial spaces to residential. At this point, the applicant now seeks to leave the other commercial space in front as a commercial space because it has access to the street and fronts on the street. The only commercial lease hold area converted to residential would be the space in the rear.

Mr. Blake stated the unit in the rear is a three bedroom apartment. There are two separate staircases, one that goes to the cellar and the other up to the second floor. They are existing and will remain. The door entering the unit from the side of the building is going to remain intact. That is the primary entrance for the unit. Mr. Blake stated there is an entrance from the rear of the building that goes to the cellar. Currently, there's a door that connects the rear unit, but is proposed to be closed off. The stairs going to the second floor will also be closed and will not be accessible. The proposed unit is 1,553 sq. ft.

Mr. Madaio stated the unit that fronts on the avenue they had proposed to turn to residential unit will remain commercial. Mr. Madaio stated the revised drawing they are presenting tonight as an exhibit (A3) tonight was not circulated to the board. Mr. Madaio explained that the upstairs five residential units are untouched by this application.

Mr. Blake stated previously the commercial space was 3,200 sq. ft. and they are now reducing the commercial space by taking off the rear unit, bringing it down to 1,690 sq. ft. If they use 150 sq. ft. per car, they previously required 21 spaces for commercial use and are now required 11.2. spaces for the commercial use. They currently have one residential apartment, one bedroom apartment that requires 1.8 spaces on the first floor. They are increasing it to two units, a one bedroom and a three bedroom, which increases it to 3.9 parking spaces. There are ten parking spaces required for the second floor that will remain the same. They have existing requirements for 33 parking spaces based on the commercial and residential mix use they have. The proposed commercial and residential mix will decrease 25 parking spaces that are required. Mr. Blake stated what they have existing is 13 spaces and 13 spaces proposed.

Mr. Madaio stated the total available parking spaces has not changed. They have gone from a total demand of 33 to a total demand of 25 parking spaces.

Mr. Blake stated the previous application was similar. They were required to have 31 spaces with the amount of commercial and residential units. Mr. Blake stated by adding more residential than they previously had, it was 31 and 23. They are now at 31 and 25 parking spaces. They will just be using the 13 spaces on the south side of the parking lot.

Chairman Stein stated they will not be using the two spaces in the back. The original drawing circulated to the board has 15 and will be only 13 on the amended copy.

Mr. Blake stated the two rectangular spaces on the drawing are for trash and are not intended to be parking spaces.

Mr. Madaio stated the 13 parking spaces on the south side of the property are all existing. The actual area proposed to be converted to residential is the rear portion of the first floor. The existing apartment in the northeast portion of the first floor is existing. The balance of the premises, all of the existing commercial, will remain commercial.

Chairman Stein stated there were quite a few concerns at the last meeting and was why the application was tabled. There were questions about snow removal, garbage being thrown out, a stop sign, and other

issues. The inadequate parking is still an issue. In addition, there was an issue with getting the fire trucks onto the site. He asked Mr. Blake to address the issues.

Mr. Blake stated the fire situation is the same today as it will be if they change the unit into a residential unit. He read the NFPA requirements and an aisle of 20 feet is required. They have an aisle of 19.2 ft. They are deficient by less than a foot. They have fire escapes along the side of the building and are approximately 11-12 feet high.

Board member Friedman inquired with the type of fire escapes contemplated, does it reduce the 19.2 feet further in the areas of the two fire escapes. Mr. Friedman stated the 19.2 feet in reality is about 16.2 feet, where 20 feet is required.

Mr. Blake stated it decreases three feet with the fire escape. Mr. Blake stated the fire escapes are existing and serve the second floor units. They are equally important as a fire truck getting people in and out. Mr. Blake stated it's 16.2 feet with 11 feet off the ground.

Board member Smith inquired if the vehicles are parked on the left and the building is on the right, isn't it decreased more. If there is still snow, the aisle will be 2 more feet further out in the parking lane which decreases it also.

Chairman Stein stated the problem is that it is not enforceable. He agrees with Mr. Smith. The applicant agreeing to take the snow out is not a solution.

Board member Steinel stated there seems to be a focus on driving apparatus behind buildings. You don't do that. Fire apparatus costs over a million dollars. Buildings fall apart during fires and destroy apparatus. Fire apparatus can't be more than 8-8 ½ feet wide maximum. Mr. Steinel stated those apparatus that have outriggers, to support the aerial ladder, gives them ground space. Mr. Steinel stated a fire apparatus would drive toward the rear when there are extremely large warehouses and buildings, like there are in the Meadowlands. They would not be in the driveway of a building that would collapse and destroy over a million dollars of borough equipment. They shouldn't worry about the foot access around the building either. They should focus on driving around the building.

Chairman Stein asked Mr. Steinel if 14 feet of access is adequate. Mr. Stein stated there are no real issues from a fire standpoint.

Mr. Steinel's response was yes. Mr. Steinel stated no as long as they can get ground ladders into the parking areas of the lot.

Mr. Blake stated currently there are two parking spaces in the rear of the building. They are proposing to eliminate those spaces and have trash containers. They would most likely have a chain link fence surround the containers. There is a private carter that takes the trash away. There is plenty of room in the rear to contain the trash and access the trash to remove it off the property. Mr. Blake stated they are up against the property line and understands that is an issue. There is a neighbor's garage up against their property in the left hand corner and there is a safety factor they are encroaching upon. There should be a 6 foot fence there and a guard rail for the change in elevation. Snow removal is required by the owner. There is some room in the back of the building to store snow in the meantime. The parking area can be cleared. Mr. Blake stated accessible parking spaces are required to be 13 feet wide. There are 12 parking spaces that are 9 feet wide. It is about 5 inches short of what is required and off of the right of way. They are not increasing or decreasing the size of the building. Nothing is changing. They are actually having a requirement of less parking spaces and less traffic in the area. Mr. Blake stated working with the existing

site and making minor improvements with the trash along the rear property line will make it a more friendly site.

Chairman Stein stated something more than a chain link fence is needed. Something prettier and more solid should be proposed. Shrubbery and something else that would keep a car from ending up on her property. Mr. Stein stated they need to address that since it is a serious issue. Mr. Stein stated whatever is there now is unsightly and ineffective. It's not well kept and it looks like it's been hit.

Mr. Madaio stated he agreed. The only issue is if they are going to preserve the parking space there, there wouldn't be a lot of width to work with. They are open to ideas and will look at it.

Mr. Blake stated what is there is the back of the garage building of the next door neighbor.

Board member Steinel stated he can see where the trash containers in the rear of the building are on the drawing. There's the 20 feet alley/driving lane. He inquired how the dumpster truck was going to make the turn to grab the container.

Mr. Blake stated the truck will not pull all the way into the driveway. They will roll the dumpster to the truck. Mr. Blake agreed with Mr. Steinel in not wanting the truck to make the turn in the driveway. Mr. Blake stated there would be two containers.

Chairman Stein inquired if the private hauler separates the recycling from the trash. Two containers would be needed.

Board member Smith requested explanation from Mr. Blake how using a few inches of the borough's right of way would not be a problem. Mr. Smith inquired if Mr. Blake was speaking about the entrance off the road of Washington Avenue into the driveway. Mr. Smith stated that first car parked is more than a few inches off the sidewalk. Mr. Smith inquired if the parking spaces are going to be straight and not on an angle. Mr. Smith saw again today that a SUV was parked on the sidewalk. A SUV is bigger than a car and the rear tire is usually in the borough's right of way on the sidewalk.

Mr. Blake stated it's an existing condition where there is about five inches of paving on the other side of the property line. If the accessible vehicle needed five inches of paving on the other side of the property line it would still be a usable, accessible parking spot. Mr. Blake's response was correct.

Board member Fuentes stated the location of the new trash containers puts it closer to the back of the Bank of America parking lot which is an improvement over where the existing location is behind the residential garage. He is in favor of the new location. He inquired if the parking will be assigned to the residential and commercial uses.

Chairman Stein stated they had discussed it last time that the problem is there aren't enough parking spaces to assign. There are five units upstairs and two units downstairs, making it 14 units, and there aren't 14 parking spaces.

Mr. Blake stated there's also the flexibility of having the commercial spaces needing more parking in the daytime and the residential parking needing more spaces in the evening. There might be an overlap.

Mr. Madaio stated the property is benefited because the first floor is frequently, significantly vacant. They are not changing anything about the parking. They are not increasing the parking demand. If they leave more commercial, they will have that additional parking demand. Mr. Madaio explained if they change it back to residential, they will have residential demand for the 1,500 sq. ft. It will be less than the

commercial demand and you can control the number of spaces allowed in the lease. One of the vacant spaces in the front was rented to a coffee shop use. It won't work if people can't park. There really aren't any options or else the site will remain empty. There's only parking spaces on this site. There's five units upstairs, one unit downstairs, a bunch of commercial downstairs, and now 40% of the first floor has to be something. Mr. Madaio stated his client has expressed to him that an issue is that he tends to get crappy tenants in the unit in the back of the building who aren't very nice to the neighbors and don't keep the place very nice. You are not getting traditional retail in the back space. You get a construction company that leaves extra trucks in the back.

Chairman Stein stated they can't consider bad tenants as a traditional hardship. Mr. Stein inquired if the applicant has considered turning the entire building to residential. The parking problem would be resolved.

Mr. Madaio stated they are not claiming that as hardship. At some point, the space is going to be rented. When it is rented, the commercial area is going to take up parking spaces. Mr. Madaio stated whether it's residential or commercial, the parking demand is almost the same. Mr. Madaio stated they were shooting for that other than the commercial unit he just rented to the coffee shop. Their prior application was everything except the southern unit which was met unsuccessfully by the board. His applicant would be happy to turn the building to residential. The problem is not whether the back of the first floor is commercial or residential. The problem is whatever it is, you can't park it, the fire lane is only going to be so wide, and the neighbor will be so close as it is.

Chairman Stein stated they can't guarantee him anything if he does. Mr. Stein stated according to the fire expert, Mr. Steinel, the fire safety is not an issue as the board thought it to be.

**Questions from residents within 200 feet and beyond:**

Warren Williams, 220 New Bridge Rd, stated he visits 372-378 S. Washington Avenue everyday because his daughter lives there and is familiar with the property. The parking spaces are not straight in right now and there are a lot of tenants that reside on the second floor that have more than one car. Also, a statement was made that the apartment in the front is a one bedroom apartment, it is a two bedroom apartment. Mr. Williams inquired where the handicapped space will be located and if the handicapped space is going to be one of the two spaces in the front. The new tenant has two spaces assigned to him now. Mr. Williams inquired what the process is in removing the rubbish and the abandoned car in the back of the building.

Mr. Blake stated he was told by the applicant it is a one bedroom apartment. They are not proposing to keep the diagonal parking spaces. There will be one handicapped space located closer to Washington Avenue. The handicapped spot is going to be the spot that is closest to Washington Avenue.

Chairman Stein stated should the application be granted, it would be a stipulation of the approval. It would have to be removed. The parking space would have to be made non-diagonal. It would have to be in the lease that there is only one spot per person. Everything will be memorialized in the resolution and he can't build unless he follows through.

Mary Sullivan, resident, stated residents don't work 9am-5pm anymore. A lot of people work from home and at nights. Ms. Sullivan stated that should be taken into consideration.

Chairman Stein stated that was discussed earlier in the meeting.

David Spatz, planner, stated he did an evaluation of the planning issues with the application. He shared on the screen Exhibit A4, a series of 4 photographs of the property. The top left hand photograph is looking at the front of the property from Washington Avenue. The top right hand photograph is looking at the side

of the building down the parking lot. The space that is going to be converted into the new residence being discussed can be seen. Towards the end of the driveway, the garage and dumpster can be seen. The bottom left hand photograph is looking to the left and south of the property. It is a shot of the parking lot, the cars there, and the adjacent building. The final photograph on the bottom right of the page is looking to the right or the north showing the building and the adjacent PNC Bank with their drive up facility right next to their building. Mr. Spatz stated they need a use variance. Mixed uses are permitted within the zone. However, residences are not permitted on the ground floor. They are limited to the upper floors of the building. This is a situation where there is an existing residence on the ground floor and adding one more to the ground floor in the existing space. There are other bulk variances associated with the project. They are all for pre-existing conditions, setbacks, coverage, and impervious coverage. Those are not being affected in any way with what they are proposing. The only other variance is the parking variance. There is a shortfall of parking. Mr. Spatz explained existing on the property continues to exist but the demand has been reduced by converting the commercial space in the rear to an apartment. The site is well suited to what is being proposed. The site is an existing mixed use building and they are not changing the essential character of the property. One of the ways providing the special reasons with the use variance is how it meets the purpose of zoning as stated in the municipal land use law as well as the town's zoning ordinance. Mr. Spatz stated what they are proposing meets a number of the purposes of zoning. They meet purposes A, G, and I. There will be improvements made to the site. There will be fencing to better protect the garage as well as screen the parking lot from the adjacent parking lots. There's the ability to make improvements to the building as well as to the site with the striping, angled parking, and enhanced landscaping. Mr. Spatz stated they are following what the master plan recommends by providing residences within the commercial district. The character of the building will remain the same even though they are adding the residence. It's a good size unit and there is a need for family residences within the business district. There are no changes proposed to the exterior of the building. All of the variances are for pre-existing conditions. Parking is the one remaining C variance. They are significantly reducing the demand for parking by converting the commercial space to an apartment. There is a reduction in demand of 8 parking spaces based on RSIS calculations. There is sufficient parking onsite to serve the commercial and the residential uses. The positive criteria exists. Mr. Spatz stated there isn't anything substantially negative. It is in character with the surrounding neighborhood. The building is not being expanded and the setbacks are not being changed. The improvements being made will enhance the site.

Board member Friedman stated he was the one who requested testimony from a planner to ascertain whether the positive and negative criteria were met. He thanked Mr. Madaio for accommodating him for that.

Board member Smith stated in the upper right hand picture, he sees only two fire escapes on the second floor and the drawings, A-1, is showing one on the right side and two on the left side. Mr. Smith stated he thinks they are short and there might be a safety factor. Mr. Smith requested clarification what Mr. Spatz meant when he had stated the parking will be monitored or restricted. Mr. Smith inquired if cars will back out onto Washington Avenue.

Mr. Spatz stated there is ability to add a fire escape to the rear of the building. Mr. Spatz stated he didn't say anything about the parking being monitored or restricted. He stated the spaces right now are angle spaces and is difficult to get in and out. He stated changing them to 90 degree spaces will make it easier for cars to back out. They will also be striped better. Mr. Spatz' response was no. It is very difficult to back out of the space. The only safe way is to head out onto Washington Avenue. He explained putting the space perpendicular will allow the back up to be better and allow cars to head out onto Washington Avenue in a safer manner.

Mr. Blake stated the drawings indicate two fire escapes on the south side of the building just as the photograph indicates. The other one is there but can't be seen. They are not changing the second floor.

Board member Morf inquired if the two trash bins will be rolled out to Washington Avenue. Mr. Morf inquired if the vehicle is going to pull in and then back out of the driveway. Mr. Morf stated guard rails are needed along the rear property line so the trash cans don't crash into the neighbor's garage.

Mr. Spatz stated Mr. Blake had testified that a smaller vehicle would be able to drive to the rear of the property, get out, roll the dumpsters out of their bins, and trash would be loaded in the smaller vehicle. The bins would not be rolled down the street or have a vehicle park on the street. He stated he is unsure how it would get out. The vehicle might park at the entrance to the driveway. There is some paving asphalt in the front that might allow it to do it or if it comes early enough it can utilize one of the parking spaces. Mr. Spatz stated the bins will be stored in a location that is not free standing and fencing will be put up.

**Questions from residents within 200 feet and beyond:**

Patricia J. August, 15 Warren Street, inquired if one handicapped parking space is enough. Parking is not enough for that building. The building was planned very poorly from the beginning. Ms. August stated she doesn't know if a guard rail will be enough protection. She suggested putting bollards also. She stated she is concerned about additional cars and trucks parking and going onto her property. She is concerned about the garbage attracting rats and has baited every month. The garbage is emptied at 3:00-4:00am in the morning waking up the neighbors. They crash into her fence and garage. Ms. August stated there is a drop and there is no dry well. The snow just sits there.

Mr. Fuentes stated there is a difference from what happened next door and what is being proposed. This is an improved site where they are not increasing the previous coverage.

Mr. Stein stated there aren't any changes made to the property. It's an interior change that will not affect any drainage. There are going to be two garbage containers that will hopefully alleviate the garbage problem.

Mr. Madaio stated garbage is not going to be picked up during business hours and tends to be picked up between 6-7am, anytime prior to 8am. They don't want residents inconvenienced and have them hear the noise. The handicapped spaces will be what's required. The use of bollards is a good idea if there is an issue with solid waste containers striking a building that's on the property line. Mr. Madaio stated they would be very happy to comply with the ordinance.

Board member Steinel stated Bergenfield has an ordinance, when it comes to private garbage collection, 7:00am or 8:00am is the earliest they can pick up.

Ms. August stated there is no lighting in the back of the building and it is a very seedy area. The back of the building is terrible.

Mr. Madaio stated the applicant they will put lighting.

Chairman Stein stated they had already discussed that the back of the building is unsightly and the garbage problems will be addressed. Mr. Stein explained should the application be approved, it will be memorialized that should not Mr. Lita not follow through, there is recourse.

Mr. Madaio stated the building is existing and does not allow for niceties on the site. There isn't enough parking with or without this application. The fire escapes are existing and assumed they are to code. They are inspected every year. There have been some questionable concerns that they have tried to meet. Mr. Madaio stated the building will be better with the 1,500 sq. ft. apartment where they can control by lease,



the number of cars and other factors. Ms. August raised some good points. The people who are renting the back of the building, who don't need exposure on Washington Avenue are not likely crippling tenants. There are no changes to the structure of the building, the parking lot, and the number of spaces. Mr. Madaio stated this application reduces the parking demand and provides the opportunity to control it even further. The option for an apartment unit is far better than leaving it as commercial space.

Chairman Stein stated he appreciates the changes that were made to the application. Mr. Stein stated should there be a motion for approval, there is a laundry list of stipulations.

Board member Steinel stated based on what he heard, he stated there be stipulation that the dumpster is picked up at least twice a week. His garbage gets picked up twice a week. It can alleviate some of the problems with overfilling the dumpster. Also, bollard or something along the property line should be placed adjacent to the property owners.

### **Motion to Approve Application Subject to Stipulations**

**Motion By:** Charles Steinel  
**Second By:** Amnon Wenger  
**All Ayes. None Opposed.**

The meeting was recessed at 9:49 PM. The meeting resumed at 10:00 PM.

### **NEW BUSINESS**

1. Matthew Doyle  
75 Hillside Avenue  
Semi-Inground Pool

CARRIED TO NOVEMBER 1, 2021 MEETING

2. Bergen Regency LLC  
51-59 Bedford Avenue  
Construct a Multi-Family Residential Building in B-2 Zone

Doug Bern, attorney for applicant, Bergen Root LLC, 90 W. Palisade Avenue, Englewood, NJ, stated the application was reviewed by the site plan committee. The application was approved by the zoning board in 2012 and he represented the applicant at that time. Mr. Bern stated the application is for 51-59 Bedford Avenue. It is on the corner of S. Front Street and Bedford Avenue and is in the B-2 business zone. The application did receive approval for a similar application back in June 2012. The project was not built due to economic circumstances and the approval expired. They are back before the board with one less variance. The application is for seven attached town homes in a three story structure. Mr. Bern stated the parking complies with the borough ordinance and RSIS. In 2012, they required a height variance. They longer need a height variance since the town ordinance has changed. They do require a use variance because it is a residential project and it's not a mixed use. There isn't a commercial component to the building. They also require a few bulk or C variances. Mr. Bern stated minimum lot area is 9,892 sq. ft. The drive aisle width request is 54 ft. proposed, where 40 ft. is required. They have a buffer with the adjoining property where 5 ft. is required and they are proposing 3 1/2 ft. on the west side of the property. Curb cut is 45 ft, where 30 ft. is standard in the district.

Michael Hubschman, licensed engineer, 263 S. Washington Avenue, Bergenfield, NJ, stated he drew the plans (Exhibit A2) for this application and shared them on the screen. The site is 100 x 100 sq. ft. It is

slightly less than 10,000 sq. ft. since it is a trapezoidal angle. It is presently vacant and just contains contractor's storage in the yard. It is flat and does not contain any drainage structures. Mr. Hubschman stated it is in the B2 zone bordering on the R5 zone. The application is identical to the project proposed in 2012. It is a three story building with seven units. There are four two bedroom, one one bedroom, and two three bedrooms. The building is broken into three separate units. The parking proposal would be for the six units. There would be two spaces assigned in the front. The ADA apartment would be in the rear. Refuse is proposed on the left side with a 10 x10 pad. A private hauler is proposed. There is a small mechanical building to the north of the property line. There is proposed landscaping of trees in the back. The building will be fully sprinklered. They are proposing a fire connection to the sprinkler room. There is no drainage onsite at all. They are proposing three seepage pits. Two pits are required for 2 inches of runoff. They are providing more runoff than required by the code. The proposed lighting will be regular lantern lights. There will be standard lights in front of the garages, in the entrance ways, and along the sidewalk. They are proposing to remove and construct a new sidewalk and aprons along the frontage. It will be a good redevelopment for the corner. The one bedroom unit on the first floor in the rear will be the ADA unit. There is a 16 ft. width space for an ADA space and one guest spot. The applicant's father had originally wanted to move into that space but he passed away.

Mr. Bern stated Mr. Fuentes had made a number of comments in his review letter and asked Mr. Hubschman to go through them.

Mr. Hubschman stated the length of the two spaces on Front Street should be included. It is 18 feet and is shown. The space will be in ADA compliance. They are proposing a 10 x 10 pad area in which there will be a private hauler. It has a PVC fence around it and typically there are two pick ups a week. There will be assigned spots of six rows of two in the main building and the ADA space in the rear. There are just small revisions that are required on the plan. They will comply with all of the revisions. The sidewalk is currently old and battered. Some of it is not there. They will submit revised plans upon approval.

Board member Smith inquired if this will fall under the Fair Housing. It's new and he has to reapply to the board according to the building department. Mr. Smith stated the mixed use height in the area for residential is 30 ft. and if it's going to be partially commercial, you are allowed to have height 40 ft. They are proposing 34 ft. They will need a variance for the 4 ft. also. They are allowing the extra 10 ft. because you can have the business on the bottom and residential on top of the business.

Mr. Bern stated if it applies, they will comply. Mr. Bern stated they had discussed it with the board's counsel and they are aware there is a Affordable Housing ordinance. If there is jurisdiction over the building, then they will comply.

Mr. Hubschman stated they are at 34.9 ft.

Chairman Stein stated the applicant needs a variance for the height.

Mr. Bern stated he is looking at the borough zoning chart and he doesn't see that. They will amend the application to reflect the height requirement.

Marios Lachamaris, licensed architect, 1610 Center Avenue, Fort Lee, NJ, shared on the screen the plans dated 9/17/21. He stated they are proposing to build a building that will be a transition between the businesses and the residential area with single families. The building is three stories. The ground level has garages. On the second and third floor, there is six apartment units. Behind the right side corner is the ADA complaint unit. The front of the building will be brick veneer to be aesthetically pleasing and conforming with the residential area. Mr. Lachamaris stated they provided the front with balconies. They divided the building, which is 69 x 48 sq. ft., into three sections. Each section has two units. They are in

compliance with the construction codes. The two bedroom unit is 1,060 sq. ft., the three bedroom unit is 1,360 sq. ft, and the middle unit has about 15 x 11 ½ sq. ft. The mechanical units for the first floor units are in the basement and for the second floor units are in the attic. There is a sprinkler room that is in the second utility area that accommodates two hot water heaters and furnaces. Residents will bring their trash to the front to the trash area.

Board member Friedman inquired if the seven units will be rentals or sales.

Mr. Bern stated at this time they will be rentals.

Michael Pessolano, licensed planner, stated he evaluated the application from a planning perspective to ascertain whether the application meets the criteria for the requested zoning relief. In preparing for his testimony, he visited the site, walked and photographed the neighborhood, reviewed application materials, and reviewed zoning and master plan materials. He discussed the application with the project team. Mr. Pessolano shared on the screen an 8 page exhibit, A3. He is submitting the exhibit tonight. The first page is a tax map showing the subject property. The second page is map two which is the borough's zoning map, showing the property to be within the B2 zone. Sheet 2 shows more detail superimposed on top of an aerial image showing the site. The area is made up of one or two family dwellings. Sheet four shows the property in visual chaos in its current state today. It's not a very attractive use in current configuration. The curbs and sidewalks are deteriorated. The application will upgrade the infrastructure and will provide stormwater drainage for the entire site that is nonexistent today. Mr. Pessolano stated a D1 use variance is sought that is not permitted in the district for 7 residential units and until recently did not allow any non-residential use. But, now it allows for mixed use where residential is above the ground floor of commercial. The building is a three story structure with complaint parking and building setbacks. The zoning standards for non-permitted uses are usually subsumed within the D1 consideration, but they meet the standards. All parking is accommodated on site. They also need three C variances for concerns of the driveway and a deviation of a foot and half away from the buffer along the residential property. The lot area is deficient by a few feet of 10,000 sq. ft. That is an existing condition. Mr. Pessolano stated compared to what there is today, the proposed use will have a tremendous harmonizing and calming effect on the surrounding neighborhood. There is a four part test to evaluate against the Medici standard which is required for analysis and approval of D1 variances. Mr. Pessolano stated under special reasons for the test, he finds that multitude of reasons for zoning are enhanced by the application. Purpose A matters the most. This application introduces new housing opportunities and clean, modern, sanitary housing for 7 families. It eliminates a huge lighting influence that comes from the property. Purposes C, D, E, G, I and M are also advanced. The property takes advantage of the diamond shape in the corners. It is a linear land use in which the town house units are on an angle and looks like a perfect fit. The town house scenario is a nice fit and an ideal design for the property. Mr. Pessolano stated part 2 of the Medici analysis is to consider if the site is suitable. He stated he thinks it is suitable by virtue of its condition. This site is more residential than industrial or commercial. The building will upgrade the area. The location is highly appropriate for transitional use between one family units and commercial uses. Mr. Pessolano explained part 3 of the Medici analysis is to consider the potential detriment to the surrounding neighborhood. He stated the structure will provide much needed visual order and remove chaos. There is no detriment to the neighborhood. The positives outweigh the negatives. It is a good application and a nice upgrade for the neighborhood. The application meets the statutory criteria for relief requested.

Chairman Stein stated all of the witnesses will have to come back so board members and members of the public can ask their questions on November 1, 2021. They have heard all the testimony. The application is carried to the next meeting on November 1, 2021 at 8:00pm on zoom.

## **MOTION TO ADJOURN MEETING**

**Motion By:** John Smith

**Second By: Sara Berger**  
**All ayes. None opposed.**

Meeting was adjourned at 10:58 PM.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Hilda Tavitian".

Hilda Tavitian, Clerk  
Zoning Board of Adjustment