

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
May 2, 2022**

Chairman Shimmy Stein called the meeting to order at 8:02 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.

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

PLEDGE OF ALLEGIANCE

Led by Mr. Smith.

INTRODUCTORY STATEMENT

Read by Board member Smith.

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 that are set forth in Bergenfield's 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. 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, Amnon Wenger, Jose Morel, and Jason Bergman (arrived at 8:07pm)

Absent: Marc Friedman

Also Present: Gloria Oh, Zoning Board Attorney, Drew Di Sessa, Engineer from Pennoni Engineering, and Hilda Tavitian, Zoning Board Clerk

APPROVE MINUTES OF PREVIOUS MEETING – April 4, 2022

Motion By: John Smith

Second By: Sara Berger

All ayes. None opposed.

CORRESPONDENCE

Chairman Stein stated F&D Washington Avenue Associates LLC, 20 Terhune Street, is on tonight's agenda. Stephen Sinisi, their attorney, had asked for an adjournment. The application will not be heard tonight.

VERBAL COMMUNICATIONS

Comments by members of audience on matters no on evening's agenda

OLD BUSINESS

1. Resolutions:

Avram Zamist, 16 Glenwood Drive North, New Single Family House

The application was approved at the last meeting. Resolution will not be memorialized tonight as there were some engineering information needed for the resolution. Due to circumstances, information was not received in time. It will either be voted on either at next meeting, at a special meeting, or by an email vote by the board members.

8th Day Caterers, 69 W. Main Street, Second Floor Addition

Motion By: Sara Berger
Second By: Jason Bergman
All ayes. None opposed.

Adam & Tamar Stein, 78 Lee Place, An addition/Porch

Motion By: Jason Bergman
Second By: Sara Berger
All ayes. None opposed.

2. Application:

Enrique & Cristina Urquiola
87 Hickory Avenue
An addition
Carried from April Meeting

Enrique Urquiola, applicant, stated his in-laws moved in with them in August and would like to make the home more comfortable for them. They can't climb the stairs and they have been living in the den. They would like to convert the den into a small bedroom and extend the home back to the patio.

Drew DiSessa, board engineer, stated the follow up letter dated 4/26/22 responds to the engineer's review letter. The applicant addressed the site plan review and the stormwater management comments. The applicant agrees to address all of the comments and has been done so on the revised plans. Mr. DiSessa stated they still have to perform a review on revised plans and issue a second report to verify everything has been addressed as applicant has stated in his letter.

Amy Hummerstone, architect from Jacob Solomon Architect, 14-25 Plaza Rd, Fairlawn, NJ, stated 420 sq. ft. of new space is being added on the first floor. The lot coverage is 58.6% and being increased to 59.4%. There already is a drain in the driveway. There are four existing bedrooms on the second floor. They will be expanding the master bedroom.

Questions from residents within 200 feet and beyond:

No one came forward.

Motion to Approve Application and Grant Variances:

Motion By: Amnon Wengner

Second By: Jason Bergman

All ayes. None opposed.

Triple J. Family, Inc. D/B/A Dunkin Donuts Baskin Robbins
275 S. Washington Avenue
Drive Through
Carried from April Meeting

Board member Richard Morf recused himself.

Chairman Stein stated a special meeting should be held to hear this application. However, a date could not be determined at the meeting. It was suggested the special meeting be held virtually.

Jay DeLaney, Lindabury McCormick, Estabrook and Cooper, Westfield, NJ, attorney in place of Mr. Simon on behalf of Mr. Peters (adjoining neighbor), stated he was present at the last meeting at which time the issue of res judicata was discussed.

Mark Madaio, attorney for applicant, stated Mr. Hubschman had testified at the last meeting. He is updating and revising the plans regarding issues brought up at the last meeting and will not be testifying this evening. Mr. Madaio stated they will be talking about the operations of Dunkin Dounts tonight.

Joy Juevarra, 568 Beech Street, Haworth, NJ, operations manager of Dunkin Donuts, stated each store is individually operated. Her parents bought the store in Bergenfield in 1990. She was 13 years old back then. It was her first job and now she oversees the day-to-day operations of three stores, Bergenfield, Little Ferry, and River Vale. She stated that up to 2010, her dad was the baker. The Dunkin Donuts location in River Vale has a drive through. The store in Bergenfield was built in the 1950's. It was an old car dealership.

Mr. Madaio stated there are 9,440 Dunkin Donuts franchises. There are 864 stores in New Jersey with 351 drive throughs. There are 109 in Bergen County with 16 drive throughs.

Ms. Juevarra stated her dad purchased the Dunkin Donuts in 1990. He did all the baking for 20 years. The baking is now done in Lodi, at one central baking location. It's not corporate. It's one central location with different franchises that join. The initiative is to incorporate drive throughs. They are encouraged by corporate to provide incentives for remodeling, support, and resources. They want to adapt to the changing world. Ms. Juevarra stated with COVID-19, there was significant loss. On average, there was 35-45% decrease in sales. In Bergenfield, there was a decrease of 40% in sales and in River Vale there was a decrease of 60-70%. The drive through location in Little Ferry only decreased in sales by 15%. Ms. Juevarra stated it was all about convenience and non-contact. People were afraid to come out. The drive through allows for accessibility with no one coming face to face and there were safety concerns. Dunkin Donuts is a quick service restaurant across the board. Ms. Juevarra stated they did not lay off any employees during COVID-19. They didn't have the heart to let them go as they are like family. Employees were shuffled around to different stores and their hours were changed. Ms. Juevarra stated they got rid of the night shifts and brought employees working at night to the morning shift. There are 27 total employees, 14 are part-time and 13 are full-time. 24 of the employees are from Bergenfield and only

3 drive as there are several employees that are from the same family. They become family and even if not a family member, some employees give the others a ride to work. Most of the employees walk or ride their bikes to work as they live in town. Ms. Juevarra stated she is a nurse practitioner and works at Cornell. She works at the hospital three days a week and afterwards will alternate checking in at one of the stores for 2-3 hours approximately.

Ms. Juevarra stated pre-covid-19, the stores were open 24 hours and post-covid-19 the hours of operation are from 5:00am to 10:00pm (18 hours a day) even with the drive throughs. Ms. Juevarra stated pre-covid-19, there were three shifts, 6:00am-2:00pm, 2:00pm-10:00pm, and 10:00pm-6:00am. The employees were staggered coming on, coming off the shift. The maximum number of employees that were staggered were five. The most number of employees in the store are from 8:00am-1:00pm and 4:00pm-9:00pm. The Dunkin model of the drive through is to have efficiency and technology. Everyone onsite working the drive through has to wear a headset along with the employees working at the counter. Everyone hears the customer at the menu board placing the order. Everything is color coded to know which order is placed through the drive through and which is at the counter. The employee knows from the label and the computer screen the destination of the order. There currently are three cash registers, but only two are operated. There will be an additional one at the back of the store just for the drive through orders. People place orders "on the go", which are mobile orders placed online. There will be one line just for these mobile orders. You can download the Dunkin app on your mobile device and choose the location. It's the same menu as in the store. Ms. Juevarra explained when the order is ready for pick up, they hit send and the alerts go up with the appropriate labels popping up. It by-passes the cashier and the time spent ordering and paying. The purpose of the "on the go" service is to have the order ready ahead of time. They will process the order right away. The order will always be ready and the customer won't have to wait. The garbage pickup and the parking lot will remain the same. There will be no changes in the day-to-day operations. The DCP truck from the distribution center will deliver dry goods and perishables once a week on Wednesdays. She stated with the drive through they would have to determine a new location for the delivery in the parking lot. Nothing is changing with the vendors.

Chairman Stein stated the hearing for the Dunkin Donuts drive through will be carried to the next meeting with no further notice. The next meeting will be on June 13, 2022 at 8:00pm in-person.

NEW BUSINESS

Applications:

1. Yitzi & Terri Karasick
65 Thames Blvd
New Single Family House

Mark Madaio, attorney for applicant, stated they are before the board for the construction of a new home with the property being 15,000 sq. ft. Mr. Madaio stated his client has a disabled family member, several children, and hosts charity events. The size of the house is not uncommon in the area.

Massimo Piazza, Piazza Engineering, 11-15 River Rd, Fairlawn, NJ, licensed engineer, stated he worked on the site plan (Exhibit A1) dated 3/14/22. The current conditions on the site is an existing two story dwelling with the drive being on the north side of Thames Blvd directly across from Hampton Court. The property is 15,000 sq. ft. in the zone where 6,000 sq. ft. is permitted. The elevation changes from 1.19 to 1.12 with a 7 ft. differential between the front right and the rear left corners of the property. The property has all fully conforming utilities. They are proposing a single-family dwelling with a circular drive which is permitted because of the width of the property is a sidelong garage and some walks to the rear of the

property. There is a in-ground pool with a patio in the rear of the property. The pool is 4,490 sq. ft. The right leg of the circular drive doesn't continue to the street and doesn't add to coverage. There is a proposed platform in the rear yard coming out of the proposed dwelling onto a paver patio that leads to a proposed in-ground pool. There is a 4 ft. retaining wall along the back side of the property to get the elevations up a little higher. The building coverage is 29.9%, where the maximum lot coverage is 30%. There are no bulk variances needed. Mr. Piazza stated 7,670 sq. ft. is impervious coverage with is 51.2%, where 35% is permitted.

Mr. Madaio stated several towns count the pool as coverage. A pool holds more than any seepage pit. He inquired if the square footage, 700 sq. ft., of the pool can be taken out of the calculation.

Chairman Stein stated you get 10% on the pavers.

Board member Wenger stated it is 10% as of right if the variance is granted.

Mr. Piazza stated they had reviewed the engineer's letter and had originally calculated the stormwater calculations based on the impervious coverage crediting the 50%, there is water underneath that can be stored. It did not indicate in the letter that they would have to calculate all of the coverage. There currently are five seepage pits onsite and will go up based on the review letter. There are two in the rear and three in the front. Two more seepage pits will be required to satisfy the stormwater calculations based on the ordinance. Mr. Piazza stated the driveway is only 12 ft. The other portion of the driveway is 17.3 ft. on the double side, which is an adequate size driveway. You can still get into the driveway and make turns comfortably. The patio is a little bit larger due to functions occurring with disabled children or adults. It was designed to accommodate wheelchairs. Mr. Piazza stated they can eliminate the back side of the pool and have a grass area, which would give 10 ft. paver area around the pool reducing it by 700 sq. ft. versus 1,200 sq. ft.

Chairman Stein inquired if the pavers are for the wheelchairs.

Mr. Piazza stated this is correct. That is the hardship.

Mr. DiSessa inquired about the width of the driveway, which is not shown. He inquired if the other one is 12 ft. Mr. DiSessa inquired about the type of retaining wall.

Mr. Piazza stated it is 17.3 ft. His response was correct. Mr. Piazza stated they have not decided at this point, but the wall will be some kind of segmental and not concrete.

Board member Morel inquired if the seepage system will go all around the lot.

Mr. Piazza stated they are all underground. They were designed for the 25 year storm. The board engineer had requested some additional calculations.

Board member Berger inquired how high will the retaining wall be.

Mr. Piazza stated the wall will go up to 4.3 ft.

Board member Bergman inquired if the in-ground pool will be the standard size. He inquired if it is a swim up pool or a normal pool.

Mr. Piazza stated it will be a bit smaller than the standard, 700 sq. ft. Mr. Piazza stated he was not sure.

Board member Smith inquired why there is a big difference in the width in the horseshoe part of the driveway. He inquired what the width of the driveway is. He stated he was confused with the scale.

Mr. Piazza stated it is because of the double car garage. They extended the back end of the garage. The width of the driveway is 12 ft. It's correct on the actual site plan. The scale is 1 inch = 10 ft.

Board member Berger inquired if there is going to be a gate around the pool.

Mr. Piazza stated yes there will be and will meet the pool code.

Questions from Residents Within 200' and Beyond:

No one came forward.

Piero Gabucci, Axis Architectural Group, 16 Highwood Ave, Englewood, NJ, stated Exhibit A2 shows two floors with a large basement. There are six bedrooms on the top floor and 2 bedrooms in the basement. The main floor has the living room, dining room, kitchen, and a 2 car garage. They added the elevator in the plan. It goes down to the basement and up to the second floor. It is ADA accessible, but is not stretcher required. It is for the convenience of the family and for the needs of the people that visit. There is a full set of stairs leading outside as well as the main stairs inside. The building coverage is just short of 4,500 sq. ft. The actual footprint of the house is 3,800 sq. ft. they have added 600 sq. ft. of overhang and porch. The applicant hosts a lot of events for charities and wanted a larger dining room. There is a deeper basement with a couple of other bedrooms. Mr. Gabucci presented Exhibit A3, that represents the black and white drawings the board members already have. The intent was to make it sustainable with a low pitch and solar roof. The house is modest and is under the height requirements. The house is in conformance both in coverage and height. The intent of the design is to be more friendly to the street.

Board member Smith inquired if the elevator will be wide enough to fit a stretcher. He inquired how will he be able to get up from the basement.

Mr. Madaio stated the permitted height is 30 ft. and the proposed height is 29 1/2 ft. It is fully conforming.

Board member Smith inquired how many parking spaces there will be. There is only a two car garage and a driveway. He is concerned about where the guests will park and worried about the parking problem. He inquired how many people will be allowed to go into the pool. He inquired if people are going to stay with their child or drop them off and leave. Mr. Smith stated there are five children residing in the house and once they turn 17, they will be driving and have cars. He inquired where they will park. Mr. Smith stated there was a resident at a council meeting who stated that he had gotten a ticket because he had forgotten to call the police to ask for permission to park overnight.

Mr. Madaio stated it is not a daycare. According to RSIS, there are four parking spaces.

Board member Wenger stated the block has overnight parking as it leads into Teaneck about 5-6 houses down. There is overnight parking on the block.

Board member Bergman requested clarification on the number of bedrooms. He counted seven bedrooms on the second floor and three bedrooms in the basement.

Mr. Gabucci stated there are ten bedrooms.

Questions from residents within 200 feet:

No one came forward.

Questions from residents beyond 200 feet:

Mary Sullivan, resident, inquired about the available parking spaces.

Mr. Piazza stated there is a two-car garage and two spots outside in the driveway.

Chairman Stein stated it will be included in the resolution that the landscaping will be sufficiently sized to buffer noise and sight.

Motion to Approve Application & Grant Variances:

Motion By: Amnon Wenger

Second By: Sara Berger

6 Ayes. 1 Nay.

The meeting was recessed at 9:15pm. The meeting resumed at 9:20pm.

2. Oleg Lukyanov & Alina Vosk
69 Glenwood Drive North
Paver Driveway, Paver Patio, and Wooden Deck

Benjamin Wine, attorney from Prime & Tuvel, 1 University Plaza, Hackensack, NJ, stated they are seeking a single bulk variance. In 2018, the applicant had done some construction and when the ordinance was passed in 2020, the impervious coverage was lowered and the building coverage is 11.8% over now than what was permitted at the time. Mr. Wine stated 75% was based on what was constructed and will be dropped to 69.4%. They will be taking off 5 ½% . The distance of the driveway from the eastern property line has always been there. The curb cut was mentioned in the engineer's letter as being 20 ft., but is 19 ½ ft.

Oleg Lukyanov, applicant, stated when they moved 20 years ago from Staten Island, they were not aware of the town regulations for putting pavers in.

Chairman Stein stated the situation is that there is something built already. The engineer needs to determine how the situation can be remedied.

Kirsten Osterkorn, engineer and planner, 22 Madison Heights, Wyckoff, NJ, showed on the survey when the applicant had purchased the property, the driveway in the front had an angle. There is a small wooden deck with paver stairs leading down to a paver area. This was constructed in 2018 and the owner closed in 2019. The ordinance changed shortly in 2019. This did comply previously and the ordinance was then changed to 30% building coverage and 40% impervious coverage. Ms. Osterkorn stated with a 30% building coverage, that allows 10% for impervious coverage, equivalent to 500 sq. ft. Due to the ordinance change, they are at 38.5% for building coverage. She stated doing anything of substance allows to just have a little area to play or barbeque that would be triggering the variance request. The left side of the sheet shows the existing condition at the time of survey done (after the applicant did the work). It's a one car garage and when they would pull over to the left in order to allow a car to go in and out, they kept clipping the grass. They squared off the part in the front and built a 5 ft. walk along the side of their property to have a patio area in the back. The property slopes with the northeast corner being the high spot and has a slope in the northwest corner. There are patio drains and a 4 ft. retaining wall. They are looking to remove some of the patio in the northwest and northeast corner and install two drainage systems that will enhance the property. All of the roof leaders will be drained into a perforated pipe

system in the front yard. Ms. Osterkorn explained they are introducing an inlet in the back at the low spot to collect any surface water coming from the patio and grass area. It will be collected into another pipe system. They are enhancing the drainage system and making it better than it was previously. They are also helping their neighbor with any drainage concerns. Ms. Osterkorn stated there isn't any negative side to the application. She stated part of the issue was caused by the ordinance change.

Mr. DiSessa stated they are removing some of the impervious and putting in two significant drywell systems, one in the rear where there is a low point.

Mr. Wine stated they can do that and can work it out.

Questions from Residents Within 200' and Beyond:

Elizabeth Sauter, 122 Dudley Drive, inquired how the coverage went from 40% to 51%. She requested clarification of the drainage system. She inquired if it is a seepage pit. Both her property and the applicant's properties are in an area with a high water table. The soil is clay and doesn't drain properly. This property abuts ½ of her rear yard and is concerned with her property that already gets flooded. She would like a solution for both properties and whatever decision is made will not add water to her flooding problem.

Mr. Wine stated 40% is according to today's ordinance and 51% is part of the initial construction.

Chairman Stein stated they were approved for 51%.

Ms. Osterkorn explained that right now the roof leaders discharge just at grade. She stated in the back corners when the water comes through the gutter and roof leader, it runs off the patio and runs to the corner. Now, the entire roof leader system is going to be captured and piped to the front yard. The water won't be discharged out into the back anymore. Any impervious water runoff coming from the roof or rear patio will be collected in an underground system. It is not proposed as a drywell or a seepage pit. They are proposed a 24 inch perforated pipe that has stone around it.

Chairman Stein stated the board engineer feels it is adequate.

Mr. DiSessa stated they are requiring them to have certain required conditions. They have to do test pits and soil tests to determine where the water table is and how well the soil will drain. If there is a problem, then they would have to make adjustments to make that drainage system work.

Harry Dym, 65 Glenwood Drive North, stated he supports the application. He has not had any drainage issues in the past nine months.

Jason Ainspan,, 73 Glenwood Drive North, stated he is the neighbor on the north side and is in favor of the variance application.

Noah Schmutter, 118 Dudley Drive, stated the previous homeowner kept the house in disrepair and the landscaping was in bad condition. They are now in better shape in beautifying the street since Mr. Lukyanov moved in. He doesn't think the pavers made a negative impact. He is in approval of the variance and the application should be approved.

MOTION TO APPROVE APPLICATION & REQUESTED VARIANCE TO WORK WITH IN CONJUNCTION WITH THE ENGINEER

Motion By: Amnon Wenger

Second By: Jason Bergman
All ayes. None opposed.

3. David & Jessica Lefkowitz
23 Thames Blvd
An addition

Jessica Lefkowitz, applicant, stated they would like to extend their dining room. They have five sons and they can't all fit around the table when the extended family is over. They are just building out.

Chairman Stein stated it already is a non-conforming use and it will be a continuation of the non-conforming use. Chairman Stein inquired if a drainage pit is needed.

Mr. DiSessa stated the lot coverage would be a 10% overage of the maximum allowable. There is no site plan or proposed drainage. He inquired what is on the ground in the area where the addition is going. Mr. DiSessa stated that this is so di minimus. He stated he doesn't know if they are proposing additional roof leaders. He inquired if the applicant knew which way the water would run off. The gutters would have to face away from the neighbors. If it's a higher area, it should go where it is going now. There isn't enough of an increase to warrant a drainage system other than to direct the new leaders for the addition to the rear of the house.

Ms. Lefkowitz stated there is a deck and they are extending into the deck.

Board member Smith inquired if it could be brought in an extra ½ foot. The proposed side is 7 ft.

Ms. Lefkowitz stated it is along the same line with the house. It is a very narrow space and ½ ft. would not be in line with the existing wall.

Questions from Residents Within 200' and Beyond:

No one came forward.

Chairman Stein requested the applicant should come in with the calculations of the water runoff to make sure the water runoff will not affect the neighbors.

MOTION TO APPROVE APPLICATION

Motion By: Amnon Wenger

Second By: Jason Bergman

All Ayes. None opposed.

4. F&D Washington Ave Associates, LLC
20 Terhune Street
Bulk variance for 25 units

An adjournment was requested by the applicant.

MOTION TO ADJOURN MEETING

Motion By: Amnon Wenger

Second By: Jason Bergman

All ayes. None opposed.