

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
July 11, 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.

ROLL CALL

Present: Shimmy Stein, Richard Morf, Sara Berger, John Smith, Jose Morel, Jason Bergman, and Marc Friedman

Absent: Amnon Wenger

Also Present: Gloria Oh, Zoning Board Attorney, Robert Beringer, Zoning Board Engineer, and Hilda Tavitian, Zoning Board Clerk

PLEDGE OF ALLEGIANCE

Led by Mr. Smith.

INTRODUCTORY STATEMENT

Read by Board member Friedman.

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

APPROVE MINUTES OF PREVIOUS MEETING – June 13, 2022

Motion By: Mr. Smith

Second By: Mr. Bergman

All ayes. None opposed.

CORRESPONDENCE

Chairman Stein stated the only correspondence received was for an application on for tonight's agenda. It's for 84 N. Washington Avenue. The letter is from Mr. Michael Fasano opposing the application. The letter can't be accepted as evidence. He has to come in-person to testify.

OLD BUSINESS

1. Resolutions:

Matthew & Sabina Hackman, 16 Somers Ave, Porch & Patio

Motion By: Mr. Bergman
Second By: Chairman Stein
All ayes. None opposed.

Rebecca & Jason Katz, 44 Glenwood Drive North, An addition

Motion By: Mr. Bergman
Second By: Mr. Morel
All ayes. None opposed.

NEW BUSINESS

Applications:

1. Scott Cowan.
84 N. Washington Avenue
Change of Use from Mixed Use to Residential

Board attorney Oh inquired about who the applicant and the owner are. She inquired if the applicant has consent from the owner to apply for the variance. Ms. Oh stated it is written in the denial letter that Norma Jean Restoration Trust is the owner. She stated she also looked at the property record card and it's owned by an individual and not a trust. Ms. Oh stated the other issue is that if it a trust, the applicant needs to be represented by an attorney and the hearing needs to be carried over to the next meeting. It's not under an individual ownership or individual partnership. A planner is required since a use variance is being requested.

Scott Cowan, applicant, stated he is the property manager and not the owner. Mr. Cowan stated it is not an LLC. The owner is a veteran that purchased the property as an investment. The previous owner had converted the property. It's a large burden and expense.

Chairman Stein stated a change of use is a D variance, which requires a planner. Also, there is no proof the building is owned by an individual or partner. The owner is a trust and an attorney is needed to represent. The application will be carried to the August 1st, 2002 meeting with no further notification necessary.

2. Michael & Shoshana Liss
104 Highgate Terrace
Porch & Patio

David Carmel, attorney for applicant, stated they are seeking variances for a front porch. The property is in the R5 zone, but under the limiting schedule, because the property is more than 5,000 sq. ft., the restrictions of the R6 zone are applicable.

Peter F. Pulice, architect and planner, office located at 344 Broad Avenue, Leonia, NJ stated the new front porch on the 3 sides extends 8 ft. in width. The bulk variances requested include lot coverage, improved lot coverage, front yard and combined side yard setback coverage. The allowed lot coverage is 35%, existing is 39.3%, and will increase by 2% to 41.3% with the new porch. The side yard combined is 9.63 ft, where 15 ft. is required. The front yard is 31 ft. They are roofing over the property of the new patio structure where 23 ft. is required, requesting 2 ft variance. The front porch is not uncommon in the area. The applicant is seeking something similar in extending the use of the area in inclement weather. It will be a benefit in having another space to use. It will not add any floor area and is consistent with other dwellings in the neighborhood. There is no detrimental effect. Mr. Pulice submitted photographs, Exhibit A2, of some other homes in the area showing the same colonial, contemporary architecture on the block. The relief requested is de minimus and enhances the home substantially. It will be coming out only 8 ft. and will be integrated with the existing portico. There will be no changes to the utilities. The lighting inside will be LED with low glare.

Chairman Stein inquired how they will handle the water runoff.

Mr. Pulice stated it will be a flat roof. The area is only about 118 sq. ft. He stated to mitigate any runoff, there will be a small storm water retention system.

Chairman Stein inquired if they would be agreeable to whatever the engineer recommends based on the calculations.

Mr. Pulice stated that is not a problem and they are agreeable to what the engineer recommends.

Board member Smith stated it was mentioned that the front yard setback is non-conforming. He inquired why should they grant the application, as he doesn't know what the other houses on the block are like. He needs a better explanation for approving the variances requested.

Mr. Pulice stated the existing front yard is conforming with 31 ft. They are requesting a 2 ft. variance for the front yard setback. It doesn't add any additional bulk in lot coverage. They are exacerbating the 2%. The open porch concept doesn't add the traditional bulk and affect the neighbors. It's transparent. It's a minimal area that will be used on occasion to sit outside.

Board member Berger stated she didn't understand why the extension is needed.

Mr. Pulice stated it is an optional outside area that can be used during inclement weather. They have small children. It is a protected area for the children. The home can be utilized better and is more economical.

Board member Morel requested clarification as to why the calculations for the improved lot coverage and overall lot coverage are the same percentage. The definition for each might be helpful and that the lot coverage should be less.

Mr. Pulice stated he followed the borough's breakdown. They might need clarity, also.

Chairman Stein stated improved lot coverage includes house, pavers, etc. He inquired if they will be going over the 41%. The footprint should be less than the lot coverage.

Mr. Pulice's response was no. Mr. Pulice stated the footprint is 2,001 sq. ft. and the lot area is 6,000 sq. ft. The building coverage is 33.5% They are adding 118 sq. ft. with the new porch with a total of 2,119 sq. ft.

Chairman Stein stated they are both at 41%, which is inaccurate.

Board member Morel stated they shouldn't point fingers at the building department. The architect should have known. He just wanted clarification to what was being requested. There is a big difference between 41% and 35% and how they evaluate.

Questions from residents within 200' and beyond:

Barry Doll, 97 Highgate Terrace, stated he doesn't think this is the place to make corrections. According to the notice that went out, 41.3% versus 35% and 41.3% versus 30%. He inquired what's right and what's wrong. He suggested the application be deferred until the numbers are corrected, and resubmit it back to the board. He stated it's 25 ft. from the front of his house to the line to the street. He inquired if the 35 ft. is a mistake as no one on the block has 35 ft. According to schedule A, it states 25 ft. It is not 31 ft. No one has come before this board for a front yard variance. The letter sent to residents within 200' is wrong regarding the variances sought. He inquired if the applicant has requested variances before on the same property.

Mr. Pulice stated that's the minimum standard.

Mr. Carmel stated it's a greater setback. Mr. Carmel stated his client bought the house after it was built.

Chairman Stein stated the existing house has a 6 ft. greater setback than the required. They sent the letter based on what the zoning officer gave them. They did everything by the book.

Board attorney Oh stated they do have a survey and they are asking for something less than what the zoning officer had indicated in the denial letter.

Board member Friedman stated even if there was a previous variance application, they are entitled to request additional variances based on the subject matter.

Board member Morel requested clarification on the retention system.

Chairman Stein stated they have agreed to whatever calculation the board engineer gives for proper runoff.

Motion To Approve Application w/Proper Measurements

Motion By: Mr. Bergman

Second By: Mr. Friedman

All ayes. None opposed.

3. Charles & Rochelle Swinkin
23 Frederick Place
An addition

Piero Gabucci, licensed architect from Axis Architectural Group, 16 Highwood Ave, Englewood, NJ stated the applicant wants to put an addition to the home because they have an elderly parent moving in with them. The simplest solution was a small, rear addition of 10 ft. The first variance requested is a rear yard setback, where 25 ft. is required, and they are requesting 23.6. ft. The second variance is building coverage. The building is over in coverage by 0.7% and with the addition, it brings it up to 38.8% The third variance involves impervious coverage. They had an existing overage of 55.8% and went down to

52% They are getting rid of a shed in the back and removing a deck in lieu of the addition. He proposed maintaining the 55.8% improved coverage instead of reducing it. It will allow the owner to use some of the backyard for a small patio in the future. It is a two- story home and are covering the one-story with a terrace to the rear of the house. It presents no negative impact to the public, the neighbors or to the ordinance. It is to allow mom to move in with them.

Board engineer Beringer requested confirmation that the existing utilities would be able to handle the addition. He requested information regarding the storm water.

Mr. Gabucci stated they can calculate the requirements for the additional roof, but also for the patio area. The homeowner had done some recent renovations that dealt with the utilities and would be able to provide the information. Mr. Gabucci stated they would like to maintain the 55.8% of existing improved lot coverage, rear yard setback of 1.4 ft., and the building coverage adding the 400 sq. ft. for the addition itself. They are moving the driveway and the existing shed, cleaning up, creating more pervious coverage.

Chairman Stein stated if they withdraw that part of the application and don't exceed 55.8%, then they can do whatever they want. He stated how they do the 55.8% is their issue and is not a variance with the approval from the engineer.

Board member Smith stated he is confused with the driveway and the pavers.

Mr. Stein stated he is taking out the shed and cleaning up the side yards. He is not going to exceed the existing coverage to maintain the existing condition.

Board member Morel stated in the letter from the zoning official impervious was defined as improved lot coverage as a standard. It is still non-conforming. He needs some feedback for the water retention.

Mr. Stein stated he will conform to whatever the engineer requests.

Questions from residents with 200' and beyond:

No one came forward.

Motion to Approve Application Subject to Calculations for Stormwater from Engineer and Leave Improved Coverage at 52%

Motion By: Mr. Bergman

Second By: Mrs. Berger

All ayes. None opposed.

A recess was taken at 9:16 pm. The meeting resumed at 9:27 pm.

PUBLIC COMMENT

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

Mary Sullivan, resident, stated they love Hilda. She does a great job and is overworked and under paid. Ms. Sullivan stated since she's come on the board, it's been wonderful, with excellent minutes. One thing that was nice when the meetings were virtual, was that all the plans would be posted online. It's no longer being done and requested it be done again, maybe when the new building comes. It would help the public a lot and help avoid a lot of confusion from the public.

4. F& D Washington Avenue Associates, LLC
20 Terhune Street

Proposed Multi-Family Residential Development

Stephen Sinisi, from Law Offices of Stephen P Sinisi, Esq. LLC, 2 Sears Drive, Paramus, NJ, stated he is the attorney representing F&D Washington Avenue Associates at 20 Terhune Street, Block 243 Lot 17. Mr. Sinisi stated his experts will address the issues brought up in the board engineer's review letter. The property is in the B2 zone and the variances they are seeking are for: use variance, maximum improved lot coverage, building height, maximum unit density, required minimum lot coverage, minimum front yard setback for a 25 unit residential project.

Board member Smith inquired if Mr. Sinisi looked at schedule B. The first floor of the 40+ building height requirement they are seeking needs to be retail.

Mr. Sinisi stated not every variance has to be identified. They were guided by the comments made by Mr. Ravenda in his denial letter provided 9/11/21.

Arthur Kuyan, civil engineer and project manager from Stonehill Engineering & Design, 92 Park Avenue, Rutherford, NJ, stated he is the project manager involved in submitting the preliminary and final site plan. He visited the site multiple times and prepared the existing conditions evaluation. Mr. Kuyan presented Exhibit A2, aerial images of the property, including the corner of S. Washington Avenue and Terhune Street from Google Earth. He stated Terhune Street is a municipal road with one lane going in each direction. Washington Avenue is a county road with one lane going in each direction. Mr. Kuyan explained the area is in the B2 business and professional zone. In the immediate surroundings, there is Quickie's Car Wash, residential uses to the west, and commercial uses in the south and east. There is no stormwater infrastructure going into the municipal roadway. Mr. Kuyan presented Exhibit A3, a 15 page colorized rendering of the site preliminary and final site plan that was previously submitted April 22, 2022 to the board. The plan is for a 4-story residential building with 25 units with a parking lot. There is no ground floor commercial. The required improved lot coverage is 71%, they are proposing 92%. The property is 100% pervious. The required building lot coverage is 35%, they are proposing 64.4%. The front yard setback, where 15 ft. is required, and 7 ft. is proposed. The building height being proposed is 43 ft, 4 stories. Maximum density permitted is 12 units per acre, they are proposing 66 units per acre, even though there will only be 25 units. The drive aisle required is 24 ft., they are proposing 22 ft. Mr. Kuyan stated this width is more than sufficient. There will be a buffer of 1 ft, with there being no buffer there currently. Site access will be one way ingress and one way egress. There will be 8 electric charging stations installed and 25 parking spaces added on the property, with a total of 46 parking spaces. This is in excess of what is required.

Board member inquired if there is a table that describes both existing and proposed.

Mr. Kuyan stated it is listed in C-4 on the site plan.

Board member Morel stated on the left side of the property lot, there are some vehicles in the grey shaded area. He inquired if that was an accurate assessment of the adjoining property. He stated there might be a need for visual clarity.

Mr. Kuyan stated yes. There are residents to the west of the parking lot. The property is not to scale. The loading will move in and out from Terhune Street. There will be new sidewalk and curbing. There was a request for the borough engineer for milling and overlaying the street. The applicant has agreed to do that. There will be LED modern fixtures on the outside exterior of the building and the interior of the parking lot. All of the lights will face downward and prevent any glare. It will safely illuminate the site, with no glaring spill over. There will be planters, flowerings, and shrubs along the frontage of Terhune Street and S. Washington Avenue. Mr. Kuyan stated there will be all new utility connections. There will be a brand-

new stormwater management system. The drain and grades will slow down the water flow. The lot is currently fully impervious. The application will decrease the impervious coverage on the lot. It is a proposed 3, 695 sq. ft. of permeable pavers between the western and eastern parking stalls.

Board engineer Beringer inquired about the infiltration of the basins. He requested clarification about the pavers and basins, and requested Mr. Kuyan address comments #3, 4, 5, a6, and 7 in his review letter.

Mr. Kuyan stated the western portion of the property will infiltrate the water.

Chairman Stein stated, should the application be approved, it would be submitted as a condition of approval the applicant would have to satisfy the concerns of the board and board engineer.

Mr. Kuyan stated they will be requesting approval from Bergen County. They will provide all correspondence received from the county.

Chairman Stein inquired where they will be putting the 25 garbage cans. Mr. Stein suggested an alternate plan of having a private hauler pick up the garbage.

Board member Smith inquired if they are going to connect to the borough's stormwater drain.

Mr. Kuyan stated they are trying to get permission from the county to connect to the county's stormwater drain system. They will need to submit an application with the soil conservation district, as well. The sought variances would improve the conditions on the site. There would be no adverse impact to the adjacent properties. The snow would be picked up by a private hauler.

Board member Smith requested the board engineer also contact the county and get some information about the water runoff.

Mr. Beringer stated he didn't see any information for parking for the employees.

Board member Friedman inquired if the units will be rented or sold.

Mr. Sinisi stated they will be rental units.

Board member Morel stated there are 3 areas of discrepancy in the variances requested. He inquired if they are requesting 43 ft. or 40.3 ft. for maximum building height. In regards to the minimum size yard requirements, the zoning officer's letter states 15 ft. and the proposed is 27 ft., but the document shows 15 ft. Mr. Morel stated there also is a discrepancy in the numbers for the rear yard variance being requested. Mr. Morel stated the letter shows for the minimum side yard required is 15 ft. and proposed is 27 ft. The drawing shows 15 ft. for 15 ft.

Mr. Sinisi stated the applicant didn't change the numbers from Mr. Ravenda's letter.

Questions/Objections from Residents within 200' and Beyond:

Fernando Vargas, 23 Terhune Street, stated he has been living in town since 1997, where he raised his kids in a nice, quiet, peaceful area. Then, the dealership built a parking lot creating a lot of noise and having deliveries made twice a day. There also is a car wash right behind his house that's so loud that prevents him from sleeping. Mr. Vargas stated he doesn't know how they are going to enter or exit Terhune Street with the 25 units. He inquired about the safety of his family and the other families living

on the street. He stated there is no parking right now, with people blocking his driveway. He inquired where people who visit are going to park. The entire street is only one block.

Board member Friedman clarified his two objections, noise and traffic. He stated he wanted to make sure the applicant adequately addresses those concerns, if they can.

Jahane Vargas, 75 School Street, stated her concern is about the safety of the children who play in the street. Kids won't be able to ride their blocks up and down the street with cars coming in and out of the 25 units. She inquired how they are going to move forward with the public transportation. Her main concerns are safety, safety, safety.

Mary Sullivan, resident, inquired if there will be an elevator in the building. She inquired if there will be a backup generator.

Mr. Sinisi stated the architect will answer those questions.

Chairman Stein suggested putting off testimony from the next witness until the next meeting. He stated the application will be carried to the next meeting with no further notice necessary.

MOTION TO ADJOURN MEETING

Motion By: Mr. Smith

Second By: Mr. Bergman

All ayes. None opposed.

Meeting was adjourned at 10:34 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk
Zoning Board of Adjustment