

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
August 1, 2022**

Chairman Shimmy Stein called the meeting to order at 8:04 P.M.

**OPEN PUBLIC MEETING STATEMENT**

In compliances with the Open Public Meetings Act, the notice requirements have been satisfied. Meeting dates are confirmed at the Annual Meeting. Notice of this meeting was provided to the Record, Star Ledger, and Cablevision, posted on two municipal public notice bulletin boards and published on the borough website.

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. Morf.

**ROLL CALL**

**Present:** Shimmy Stein, Richard Morf, Sara Berger, Amnon Wenger, Jose Morel, Jason Bergman, and Marc Friedman

**Absent:** John Smith

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

Chairman Stein stated there was a mistake in the publication for 61 Cameron Rd. The applicant is going to re-notice. The application will be pushed to the meeting on the September 12<sup>th</sup>, 2022.

**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 – July 11, 2022**

**Motion By:** Mr. Bergman

**Second By:** Ms. Berger

**All ayes. None opposed.**

## CORRESPONDENCE

None

## OLD BUSINESS

### 1. Resolutions:

Michael & Shoshana Liss, 104 Highgate Terrace, Front Porch & Patio

**Motion By:** Mr. Bergman  
**Second By:** Mr. Friedman  
**All ayes. None opposed.**

Charles & Rochelle Swinkin, 23 Fredrick Place, An addition

**Motion By:** Mr. Bergman  
**Second By:** Mr. Morf  
**All ayes. None opposed.**

### 2. Applications:

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

Donna Vellekamp, attorney (161 McKinley Street, Closter, NJ) for applicant, stated they are seeking a use variance for 84 N. Washington Avenue. It is in the B-2 zone and is currently a 2 story building with residential use upstairs and is zoned for commercial use downstairs. Ms. Vellekamp stated the applicant is looking to convert the downstairs to residential. It's not a permitted use.

Chairman Stein stated at the last meeting because of the vagueness of the ownership, the board required the applicant to retain an attorney. A planner was also requested by the board as the application is for a use variance.

David Spatz, planner, presented Exhibit A2, 4 photographs of the existing conditions of the property and building taken at the end of July 2022. The property is in the B-2 zone which permits apartments in mixed use buildings. Mr. Spatz stated they need a use variance to convert the commercial space into two residential apartments. The site is well suited for their proposal. The ground floor was previously residential and was converted to commercial use. There is sufficient parking. Mr. Spatz stated there are no other changes required and no additional changes are needed. Mr. Spatz stated the use is consistent with the neighborhood as the building across the street has a similar use. He stated the zoning can strengthen the business district by having clientele use retail businesses in the surrounding area. There will be no changes made to the building. Mr. Spatz stated the parking lot in the rear of the property has 5 designated parking spaces, satisfying the RSIS requirements. The use is compatible with existing uses on Washington Avenue. There will be no impact on drainage and reduces the demand of parking on the site.

Chairman Stein stated drawings weren't required, but asked for a description of what it will look like.

Mr. Spatz stated he did not prepare floor plans.

Scott Cowan, 35 Prescott Street, Demarest, NJ, property manager, stated they will not be changing anything. They are restoring the use to a 2 family house that was converted 30 years ago from residential to commercial use on the first floor. The floor plan will remain the same. Mr. Cowan stated the first floor will have 2 bedrooms and the second floor has three bedrooms.

Board engineer Beringer stated this is a neutral site for stormwater. It doesn't need any improvements or changes.

Board member Friedman stated Mr. Spatz had referenced from the reexamination report of the master plan that residential units in this area serve to strengthen the business district. Mr. Friedman stated that's not exactly what that portion of the report states. Mr. Friedman read from the reexamination report of the master plan into the record. He requested Mr. Spatz explain how the application and what is requested won't impair the intent and purpose of the zoning ordinance particularly discussed in the February 2017 report.

Mr. Spatz stated he had indicated the report and zoning ordinance limited apartments to the second floor. He had spoken in general that residences help to strengthen the business district. He stated it was vacant commercial space prior to it becoming residential use.

Chairman Stein stated it was non-conforming when it was a 2 family.

Mr. Spatz stated it was an unproductive vacant space. The residential apartment is consistent with the neighborhood and brings life to the area. There is nothing negative with the application. There are other ground floor apartments in the same zoning area.

Board member Berger inquired what the square footage of the space being converted will be and how big will each bedroom be.

Mr. Spatz stated it will be 1,200 sq. ft. It will be two bedrooms, a kitchen, and a bath and a 1/2.

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

Mary Sullivan, resident, inquired what the arrangement will be for garbage pick up and snow removal. She inquired if they are they proposing any changes.

Mr. Cowan stated the tenants that will occupy the new space will be responsible. The town will pick up the garbage. There won't be a dumpster.

Chairman Stein stated they are permitted to have the town pick up the garbage.

**Motion to Approve Application:**

**Motion By:** Mr. Wenger

**Second By:** Mrs. Berger

**All ayes. None opposed.**

2. F&D Washington Avenue Associates, LLC  
20 Terhune Street  
Proposed Multi-Family Residential Development  
Carried from July Meeting

Stephen Sinisi, attorney for applicant, stated they are before the board to continue with the application for bulk variances. At the last meeting, the civil engineer presented and underwent cross examination. The

good comments from the board members and residents didn't fall on deaf ears. Mr. Sinisi stated Mr. Kuyan will address noise abatement, refuse and recycling protocol, snow removal, and drainage.

Arthur Kuyan, engineer, stated the current use is utilized by tractor trailers. Residential use will generate far less noise than the tractor trailers. The permitted use would generate more noise than what is being proposed. There will be a small, knee-high retaining wall to reduce the noise, also. Mr. Kuyan stated there will be HVAC equipment that won't make noise. The refuse will be picked up by a private hauler 2-3 times a week. The snow will be stored onsite and will be picked up by a private hauler if there is too much snow. The applicant is going above and beyond by installing permeable asphalt for better drainage. Mr. Kuyan presented Exhibit A3, a colorized rendering of the site. The applicant will observe any substandard conditions. Mr. Kuyan stated the application will have no adverse impact to the surrounding properties.

Board member Wenger inquired if the board engineer was satisfied with the statement that the property doesn't increase the water runoff and concurred with everything said tonight.

Board member Beringer stated he had no additional comment other than his comments made in his initial letter.

Board member Friedman inquired if the noise abatement wall can be higher than 3 ½ feet. He stated if there is an incidental noise abatement feature, would they be agreeable to increase the wall to 4-6 feet and if the municipality allowed it. He inquired if Mr. Kuyan knew if Mr. Vargas' property was directly west to the subject property.

Mr. Kuyan stated they would consider it if it was recommended. Mr. Kuyan stated he was not sure.

Fernando Vargas, 23 Terhune Street, showed on the drawing exactly where his house was located.

Mr. Sinisi stated it was mentioned at the last meeting that Mr. Vargas' house was behind the car wash.

Board member Berger inquired about the width of the wall.

Mr. Kuyan stated the width of the wall is 1-1 ½ ft. wide.

Board member Morel inquired about the utilization of permeable asphalt and pavers.

Mr. Kuyan stated the asphalt and the pavers are interchangeable and accomplish the same function. The client prefers to use asphalt.

Mr. Beringer stated based on the testimony, there is probably no difference between permeable pavers versus permeable asphalt. Mr. Beringer stated whatever system is installed, maintenance needs to be maintained in regular intervals.

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

Fernando Vargas, 23 Terhune Street, stated the street gets flooded and water runs off from Washington Avenue already. He inquired what's going to happen with the additional 25 units, especially when it snows. Mr. Vargas stated the value of homes is going to decrease if the 25 units are built. He loves Bergenfield but feels like he is being pushed out. He asked the board to have some consideration and think about the future of the children.

Mary Sullivan, resident, inquired what studies have been done with the handling of the sewage.

Mr. Kuyan stated they will send a letter to the proper utility company including sanitary, electrical, gas, sewer, and water about the development of the property and request evaluations.

Chairman Stein stated, should the application be approved, the applicant is willing to go up to 6 ft. for the retaining wall.

Vijay Kale, Daibes Design Group, LLC, 125 River Rd Suite 301, Edgewater, NJ, licensed architect and project manager for applicant, stated he was involved in the planning and worked closely with the applicant to formulate the design of the proposal. He prepared the 7 sheets of the drawing originally dated 1/8/2019 and revised on 2/7/2022. Mr. Kale presented Exhibit A5, the revised color plans and renderings, submitted to the board on July 26, 2022. The rendering depicts the overall expression of the proposed building. Mr. Kale stated the roof will be pitched and made of shingles. The façade will consist of waterproof material made of a combination of red brick and EIFS, which will be aesthetically pleasing and blend well with the neighborhood. The design will have a residential look and character. Mr. Kale stated sheet 2 is an architectural drawing of the first floor. It shows parking spaces on the street level for 50 cars for the 25 units. Mr. Kale stated the next sheet shows the second floor plan. The second floor plan shows the layout of the 9 units and the elevator. Some are studio apartments, but mostly they are 1 bedroom units. The scale on the plan shows how many 1 bedroom and 2 bedroom units there will be in the building. The next sheet shows the third floor plan. There will be 16 duplex units, with the third floor being the lower level of the duplex. The mezzanine level plan is part of the 16 duplex units that has the living room and bedroom portions. The two floors make up the duplex units. The next page shows the roof plan. Mr. Kale stated the bottom of the diagram shows the pitched, sloping roof that enhances the residential character of the building. The water travels from the roof through the rainwater pipes and disperses onsite. Mr. Kale stated like a single family house, there is no central air conditioning. The air conditioning unit will be placed in the window. There will be no apparatus on the roof that would generate noise. Mr. Kale stated the decibels of noise on the street will be more than the noise generated by the building. All 50 cars won't be started at the same time. Noise from outside the building will be more of a detriment than the noise inside the building. The heating is a combination unit that will be located below the window.

Chairman Stein stated these units are very quiet and efficient.

Mr. Kale stated sheet A6 shows the south and east elevations. Sheet A7 shows north and west elevations. Mr. Kale presented Exhibit A6, photographs of the surrounding composite neighborhood taken by his assistant at the end of July 2022. Mr. Kale agreed the proposed project is absolutely a good design and is an improvement. It is aesthetically attractive and compliments the neighborhood.

Board member Morel stated on the rendering of the design, the cars are going in the opposite direction.

**Questions from residents with 200' and beyond:**

No one came forward.

Chairman Stein stated the application will be carried to the next meeting with no further notice.

A recess was taken at 9:34 p.m. The meeting resumed at 9:47 p.m.

3. Triple J. Family, Inc. DBA Dunkin' Donuts Baskin Robbins  
275 S. Washington Avenue  
Drive Through  
Carried from June Meeting

Board member Morf recused himself.

Chairman Stein stated a special meeting is needed to complete the hearing for this application, preferably via Zoom. There were no objections. It was agreed by everyone to have the Special Meeting to continue the hearing for this application on Monday, August 29<sup>th</sup>, 2022 at 7:00pm via Zoom with no further notice.

Mark Madaio, attorney for applicant, office located at 29 Legion Drive, Bergenfield, NJ, stated Connor Hughes co-prepared the traffic study. Mr. Madaio stated he had submitted to the board Exhibit A16, the traffic impact study dated 12/10/21 and Exhibit A17, the approval letter from the Bergen County Planning Board dated 7/13/22.

Connor Hughes, licensed traffic engineer from Dynamic Traffic, 245 Main Street Suite 110, Chester, NJ, stated he prepared the traffic report for the application. Mr. Hughes stated currently there are two driveways located on the site, one along Washington Avenue and the other along Magnolia Street. The previous application, presented 20 years ago, was a different application than being proposed now. It was for a single drive through lane. Mr. Hughes stated this is for a double drive through lane. They conducted traffic counts during peaks hours on Washington Avenue and Magnolia Street. The counts were done during the am peak rush hour times that coincided with Dunkin Donuts use. They conducted the analysis on Tuesday, November 30, 2021 between 7:00-9:00 am. They isolated the single highest peak hour, giving them the busiest hour, 7:30-8:30am being the busiest hour at Dunkin Donuts. They then conducted a capacity analysis of the operations of the intersection and gave a level of service from A-F. Mr. Hughes explained service A is the most efficient and service F would be the poorest operation. They found the existing conditions operate between service A to C for intersection at Washington Avenue and Magnolia Street. A baseline and noble condition was established. There were no significant developments that affected the traffic conditions. Mr. Hughes stated the next thing that was done was to add the additional traffic that would be generated from the proposal. In order to project the traffic generated in the proposal, ITE is used to determine trip generation. Mr. Hughes stated the counts indicated 64 total trips in and out of the site for a total of 128. There are two types of trips. A primary trip is a direct trip from start to end to a destination and the other type is when someone is already on the road heading to a destination and make a stop along the way. They found that 63% of the people that go to Dunkin Donuts are already on the road. The only improvements are architectural in nature and the addition of the drive through. The addition of the drive through will take the existing customers and move them to the drive through, reducing the parking demand. It will appeal to existing customers and attract new customers that pass by that were not inclined to stop in before. Mr. Connors stated uptick in customers is generally 15-20%. They applied the 20% to the existing 64 trips made. This increased the number of in and out trips to 77 for a total of 154 trips with the drive through. Mr. Connors stated the ITE projection showed 110 in., 106 out, with 216 total during the peak hour. In the worst case scenario, they utilize the higher number for future analysis.

Board member Friedman stated table 4 shows 77 in, 77 out. He inquired why there is a difference in the in and out on table 5.

Mr. Hughes stated there were only a few customers left at the end of the hour.

Board member Morel stated on table 3, it doesn't show a change in the pass bys and inquired why.

Mr. Hughes stated there might be more than 63% of people already on the road and the trips are not isolated by the site. Mr. Hughes stated 100 additional trips is a significant increase in traffic. A total of 88 trips is still below the threshold to consider it to be a significant increase. The cars are already on the road. The level of service stays the same. Mr. Hughes stated they are proposing a separate entry driveway. The

operations will remain unchanged. The site plan conditions show Magnolia Street will be for exit only. There currently are 16 onsite parking spaces provided which will remain. They can stack 8 vehicles in the drive through window lane and 13 vehicles in the mobile drive through lane. 66% of the total site traffic will utilize the drive through and 34% will utilize the parking spaces. 30% of the vehicles will access the mobile drive through and 70% the regular drive through.

Chairman Stein inquired if there ever is going to be a need to stack more than 13 cars. He stated based on the numbers, there isn't a chance there will be stacking of more than 13 cars. Mr. Stein stated making the turn from Magnolia Street to Washington Ave can jam you up. A no left turn sign would be much easier getting out of the driveway.

Mr. Hughes stated results showed 5% of the time from queuing, vehicles would make a left turn. The difference from what's today than what's proposed is that there is a difference between the existing numbers than what is generated at the site. He stated there may be 3-4 cars on Magnolia Street making the left turn from time to time, based on their analysis.

Board engineer Beringer inquired why a left turn only from Magnolia Street was not considered for the site. Most of the traffic will be going through the neighborhood.

Mr. Hughes stated using Magnolia Street to get to Washington Avenue would minimize the impact of traffic. They assumed only 5% of the cars would go east on Magnolia Street and 60% would make a left to get back on Washington Avenue.

Mr. Madaio stated most of the cars are going south.

Mr. Beringer inquired if they considered eliminating turning right to direct traffic.

Mr. Madaio stated they can request that from the Mayor and council. They would have to speak with their site engineer.

Mr. Hughes stated service time is 20-25 seconds at the pick up window. The conservative ITE numbers show more than enough storage onsite to accommodate the demands requested. The 20-25 seconds is based on the different Dunkin Donuts locations.

Board member Friedman inquired how they determined how 13 vehicles can fit between Washington Avenue and the drive through window as there are some vehicles larger and longer than others. Mr. Friedman inquired about the percentage probability of there being more than 13 cars during the 7:30-8:30 am morning rush hour. Mr. Friedman stated if there are more than 13 cars who want to go through the drive through, they would necessarily line up on Washington Avenue. Mr. Friedman inquired if Mr. Hughes looked at any other drive throughs on Washington Avenue to see what their experiences are with respect to traffic backing up on Washington Avenue.

Mr. Hughes stated they used the average length of a national vehicle. They set forth the design of the vehicle and left a couple of feet in between each vehicle. There is a 0.01% probability. Mr. Hughes' response was correct. As analysis indicates, they don't anticipate that to happen. There is a slim chance for that to happen. The queue line is processed quickly. Mr. Hughes' response was no, he did not.

Mr. Madaio inquired if a drive through is backed up, wouldn't the customer be able to pull into a parking space and walk into the store.

Mr. Hughes' response was yes, they can. The drive aisles are 24 ft. The parallel parking spaces range from 8x18 ft to 8x22 ft. There are only two parking spaces below the requirement on the east side of the property with a buffer in front of those spaces.

Board member Friedman stated during the height of the pandemic, there were many more people using drive throughs than going inside. Mr. Friedman stated if there is another pandemic, what's going to happen if there are 20 cars lined up instead of 13 cars because nobody wants to park and go inside. He inquired if there was any consideration to a probable experience in the future similar to what was experienced 2-2 1/2 years ago.

Mr. Hughes stated inside the shut down, there were some issues. There's reserved capacity and sufficient capacity to accommodate. They factor in that anything can always happen.

Chairman Stein stated there was a 50-60% drop in the number of cars on the road during the pandemic. People were not leaving their homes. You can't really figure it out like that.

Board member Morel inquired if additional data can be provided as the service time of 25 seconds sounds low and inaccurate. He also asked for clarification of 13 cars versus 19 cars from entry to exit.

**Questions from residents with 200' and beyond:**

Joseph Trybala, 15 Magnolia Street, inquired when the survey was done. There was less traffic flow then. There is no additional parking provided for someone to pull over to check their order. It's convenient for someone to make a right turn on Magnolia Street and park there. It is a residential street with alternate side of the street parking. It's congested because the locals know how to get into Dunkin Donuts by avoiding the Washington Ave entry. The refuse will be thrown out of the window for people who will stop and eat on Magnolia Street. There will be cars parked there constantly.

Mr. Hughes stated it was done November 2021.

Roxanne Santos, 10 Magnolia Street, inquired if the traffic generated at the bus stop in front of Magnolia Street, by Dunkin Donuts, was taken into consideration. 177 is the NJ Transit bus line B that goes to NY. Ms. Santos stated from 7:30-8:30 am, it only stops there 4 times. She inquired if they took into consideration that from 4:00-5:00 pm, the bus that stops there increases to 6 times and from 5:00-6:00 pm, it increases to 8 stops. She inquired about what the impact of traffic is if they did take that into consideration.

Mr. Hughes stated they did not study the pm time frames because the Dunkin Donuts activity does not increase at those times.

Chairman Stein requested they come back next time with an analysis of the traffic in the afternoon.

Mr. Madaio stated they will certainly and be happy to check.

Chairman Stein stated the hearing for this application will continue on Monday, August 29, 2022 at 7:00 pm on Zoom. The information will be on the borough website. No further notice.

**NEW BUSINESS**

None

**PUBLIC COMMENT**



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

**MOTION TO ADJOURN MEETING**


**Motion By:** Mr. Bergman

**Second By:** Mr. Morel

**All ayes. None opposed.**

Meeting was adjourned at 10:59 p.m.

Respectfully Submitted,

  
Hilda Tavitian, Clerk  
Zoning Board of Adjustment