

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
October 3, 2022 8:00 PM**

Chairman Stein called the meeting to order at 8:05 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 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 that matter.

PLEDGE OF ALLEGIANCE

Led by Mr. Smith.

ROLL CALL

Present: Shimmy Stein, Richard Morf, John Smith, Jose Morel, Jason Bergman (Arrived at 8:16pm), and Marc Friedman

Absent: Sara Berger (excused) and Amnon Wenger (excused)

Also Present: Gloria Oh, Zoning Board Attorney, Joe Kong, Board Engineer, and Hilda Tavitian, Zoning Board Clerk

INTRODUCTORY STATEMENT

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'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.

Chairman Stein thanked Mr. Wenger for acting chair at last meeting. He listened to the recording of the last Dunkin Donuts hearing and everyone acted professionally. He signed the certification that he listened to the recording of the meeting.

APPROVE MINUTES OF PREVIOUS MEETING

Motion from Board Members to Approve Minutes – September 12, 2022

Motion By: Mr. Smith

Second By: Mr. Morf

All ayes. None opposed.

CORRESPONDENCE

Chairman Stein stated the application for 72 Norfolk Street is postponed and is carried to the November 7th, 2022 meeting. No further notice is necessary.

PUBLIC COMMENT

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

OLD BUSINESS

1. Resolutions:

Steven Bachrach, 23 Glenwood Drive East, Construction of Deck

Motion By: Mr. Smith
Second By: Mr. Morf
All ayes. None opposed.

Marvin & Edith Howell, 143 Melrose Avenue, An addition

Motion By: Mr. Smith
Second By: Mr. Morf
All ayes. None opposed.

2. Application:

F & D Washington Avenue Associates, LLC
20 Terhune Street
Proposed Multi-Family Residential Development
Carried from August 1, 2022 Meeting

Stephen Sinisi, 2 Sears Drive, Paramus, NJ, attorney for applicant, stated this is an application for use variance and site plan approval for D variance. The architect had testified at the last meeting. The rendering from the last meeting was provided to the board members, as requested. Mr. Sinisi stated the area is zoned for more traffic intensive generators, i.e. bowling alley. The application has a much softer benign impact to the surrounding area. At the last meeting, they were asked for a supplemental traffic study to take traffic counts while school is open.

John Corak, licensed traffic engineer from Stonefield Engineering & Design, LLC, 92 Park Avenue, Rutherford, NJ, stated he had visited the site on January 1, 2022 and had summarized the existing conditions. Mr. Corak stated the findings included not only what the existing conditions are at the time but also projected what the impacts of this project in trip generation would be. The traffic report dated January 21, 2022 was presented as exhibit A4. Mr. Corak stated it was concluded that the proposal would not have a significant impact on the roadway. The written report dated September 20, 2022, exhibit A5, was more detailed than the first report. Mr. Corak stated their office did traffic counts at the intersection of Washington Avenue and Terhune Street on September 13, 2022 during am and pm peak hours, during the school dismissal period, and collected pedestrian counts at the crossing during school arrival and dismissal times. They also studied bus arrivals and boardings of the bus. The field observations were conducted by his firm and are included in the report. Mr. Corak stated they took the traffic counts and added in the traffic generation for the proposed residential development. The level of service analysis

found that turns operate at service levels C and D during peak hours of traffic. He stated from 8:00am-9:00am, it is at level C and it operates at level D from 5:15pm-6:15pm. The level of service is a qualitative measure to determine and analysis the capacity of traffic on a roadway. Mr. Corak stated levels C and D are acceptable levels of service without overdesigning a roadway and not building too much. The added additional traffic generated by this project and the level of service will continue to operate at level C in the morning and D in the evening. Mr. Corak stated the site meets the RSIS standards and the municipality's ordinance. There will be 50 parking spaces provided, where 46 spaces are required by RSIS. The proposal does not pose any adverse effect to the traffic circulation.

Mr. Sinisi stated exhibit A2 was the architect's aerial photographs and exhibit A3 was the site plan.

Chairman Stein inquired what the traffic impact be if there was a proposed disco, a bowling alley, or some other permitted use, versus residential.

Mr. Corak stated the additional commercial use would cause an increase of traffic as opposed to the proposed residential development. He stated something of a commercial variety could be anywhere from 4-6 times the traffic.

Board engineer Kong stated with the internal circulation, there appears to be one way in and one way out on the property. He inquired if there is any proposed signage for which way cars will be going.

Mr. Corak stated there is a "Do not enter sign" that will restrict the movement of the cars.

Board member Morel stated he was having some difficulty following Table 3 and 4 for the peak hour destinations determining the level of service. He requested clarification how the level of C was determined based on the actual turning data. Mr. Morel asked where the calculations for the data could be found.

Mr. Corak stated determining the level of service is based on the average delay per vehicle. He explained there are two approaches. The first one is the Terhune Street approach on the east side and what the wait time is to turn onto Washington Ave from Terhune Street. It operates at level C of service. The second approach does not always get considered from making a left turn from Washington Avenue onto Terhune Street, where you have to wait for the traffic signal. Mr. Corak stated that turn is operating at service level A. The levels of service are based on the way the average delay falls into. He stated the appendix (A3) on sheet 3 had a definition for each level of service. Mr. Corak stated there are an extensive set of calculations starting on sheet A13 and worked backwards in explaining the calculations. He explained on what page the exact calculations were performed for heavy vehicles, trucks, buses, and pedestrians.

Board member Friedman inquired what the 16.2 meant in Table 3. He inquired if it referred to trips or the number of vehicles on average in that period. Mr. Friedman stated Table 2 talks about weekday morning peak hour (enter 2 and exit 7). It doesn't sound like seconds waiting, it sounds like vehicles. Mr. Friedman stated the total is 9, and then looking at Table 3, he sees 9.0. He inquired if the 9.0 in table 2 is different than the 9.0 in table 3 because the one is vehicles and the other is waiting time.

Mr. Corak stated 16.2 is the average number of seconds that you would be delayed at the intersection. You would be waiting 16.2 seconds and in the future that would become 17.5 seconds. Mr. Corak stated that is correct. It is by coincidence that the numbers are the same.

Board member Smith stated in Table 3, it shows 16.2 seconds and then 9.0 seconds. He stated he knows the area and he was there Sunday. He was there during the same hours and tried to make a right-hand turn. It took him longer than 16.2 seconds to make the turn. Mr. Smith stated the study was done

September 13, 2022 when school was in session only one week. He stated doing the count just one day is not accurate. There are new students that try to figure out what the best way to get to school is. He inquired what is considered to be a bike. He inquired what mopeds and electric scooters are classified as. Mr. Smith stated between 3:00pm-4:30pm, for 3 days in a row, he counted 10 bikes and 15-25 pedestrians. He stated he doesn't see any bicycles in the report. Mr. Smith stated he doesn't see how there is an accurate count when counts were taken on only one day. Mr. Smith stated on certain days it could have been raining and kids didn't take their bikes or didn't walk to school because their parents took them. He inquired how many vehicles come out of School Street and turn onto Terhune Street, as he didn't see a count for that.

Mr. Corak stated a bike is considered as a person on a bicycle. Motorcycles are not considered bicycles and are classified as part of the vehicle class. Mr. Corak stated those are classified according to their size. They didn't observe any of those. Mr. Corak stated the greatest impact the project would have would be on Washington Avenue. He stated they did supplemental counts during the school time period. The conclusions provided were exactly the same as previously provided. The extensive data presented shows that it is very small in generating traffic.

Mr. Smith inquired if there was commercial use, i.e. pizzeria, 7Eleven, beauty shop, or a doctor's office, on the bottom floor, what impact would that have. Mr. Smith inquired if Mr. Corak did the traffic study based on the master plan. Mr. Smith inquired if they would consider doing traffic counts for more than one and on a rainy day. He inquired if counts are higher on rainy days.

Mr. Corak stated a store like 7Eleven would be on the higher end of generating up to 10 times more traffic. A beauty salon or a barber shop would generate equal or slightly above the amount of traffic that would be generated by the proposal. Mr. Corak stated a pizzeria would be busy during different times of the day, with delivery drivers parking on the street causing their own congestion. Residential parking would have the same generation every day. Mr. Corak stated he didn't review the full master plan. He looked at the zoning portion. Mr. Corak stated they don't schedule traffic counts on rainy days. Mr. Corak stated traffic on rainy days don't tend to be higher because people do not do extracurricular things.

Questions from residents within 200' and beyond:

No one came forward.

Michael D. Kauker, licensed professional planner, stated he reviewed the zoning ordinance, master plan, the plans and reports submitted, and walked around the proposed site in preparation for his testimony. The proposed project is for 25 units, four stories with parking on the ground floor. The application requires a D1 use variance, a D5 variance for density, along with bulk variances. Mr. Kauker stated the property is located in the B-2 business and professional use zone. The property is a corner lot on the corner of Washington Avenue and Terhune Street. It is currently a parking area with several vehicles parked in the lot. The surrounding area includes: a car wash adjacent to the property, a two-family dwelling to the rear of the property, a multi-family dwelling on the opposite side, a medical office, and candy manufacturing and perfume manufacturing across the street. Mr. Kauker stated the proposed site is well suited for the proposed use. The character of the site, being a corner lot that is 16,537 sq. ft. meets purpose A and is larger than minimum area required. It is one of the only underdeveloped, underutilized lots in the area and fits in with the nature of land uses on Washington Avenue. The proposal implements principles of smart growth. It is a more efficient use of the land. Mr. Kauker stated he had reviewed the town's master plan and read goal number one of the master plan into the record. Mr. Kauker stated the proposal provides a variety of housing choices and also Fair Share Affordable Housing that will contribute to the unmet need of the town. The proposal meets the goals and objectives set forth in the master plan. Mr. Kauker stated there isn't a specific density requirement in the B1 and B2 zone. The site can accommodate 25 units. RSIS requires 46 parking spaces and the proposal will provide 50 parking

spaces. Mr. Kauker stated 25 residential units is less intensive than other permitted uses, like a bowling alley or a gym. The proposal will have no substantial detriment to the public good and the negative criteria has been met. Mr. Kauker stated even though residential use is not permitted in a B1 and B2 zone, residential use is appropriate for this specific site.

Board member Smith asked Mr. Kauker if he was aware the governing body had made changes to different zoning areas. Changes were made to the zoning ordinance and as to what can be done in the zone. Mr. Smith stated one of the changes was for commercial use on first floor with residential units above on Washington Avenue. Mr. Smith repeated what Mr. Kauker had stated that there is no criteria for the negatives. He inquired if Mr. Kauker agreed that a negative criteria determination always involves the balancing of more positives than negatives. He inquired what is the public interest and what the anticipated effect of the application would be. Mr. Smith inquired how many units will be set aside for affordable housing and if they will be one bedroom or two bedroom units.

Mr. Kauker stated he is not sure of what actions the governing body has taken on the master plan specifically. It's not indicated in the document. Mr. Kauker stated ultimately, the board needs to weigh the positive and negative criteria. The positive criteria outweigh the negative criteria. It is going to result in the construction of a new multi-family residential building providing additional housing choices. It's going to be a positive impact on Bergenfield and will also comply with the affordable housing component and comply with the ordinance requirements.

Board member Morel requested Mr. Kauker define the smart growth principles. He inquired if the size and scale of 25 units meet the criteria for smart growth.

Mr. Kauker stated it's part of the overall design scheme. Smart growth is providing greater density in the area. The zoning ordinance permits a 40 ft. building.

Questions from residents within 200' and beyond:

No one came forward.

A recess was taken at 9:35pm. The meeting resumed at 9:40pm.

Chairman Stein stated the board is not going to vote on the application tonight. There are some unanswered questions. The board would like the applicant to come back with better traffic generation information for both pedestrian and vehicle counts taken over several days, one being on a rainy day.

Mr. Sinisi stated contrary to standards, they understand the reason for the additional comments.

Chairman Stein stated they want to get the real impact of traffic for more than one day.

Board member Morel stated he would like to see traffic counts from when school gets out at 3:00pm.

Chairman Stein stated the application will be carried to the November 7th, 2022 meeting with no further notice necessary.

NEW BUSINESS

None

MOTION TO ADJOURN MEETING

Motion By: Mr. Bergman

Second By: Mr. Friedman

All ayes. None opposed.

Meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

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

Hilda Tavitian, Clerk
Zoning Board of Adjustment