

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JULY 10, 2023**

Chairman Stein called the meeting to order at 8:03 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 Chairman Stein.

ROLL CALL

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

Absent: Amnon Wenger (excused), Jason Bergman, and Nishant Desai (excused)

Also Present: Gloria Oh, Zoning Board Attorney, Peter Bondar, Department Manager from T&M Associates, Councilman Marc Pascual, Council Liaison, and Hilda Tavitian, Zoning Board Clerk

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 5, 2023

Motion By: Mr. Smith

Second By: Mr. Morf

All ayes. None opposed.

CORRESPONDENCE

Chairman Stein stated a letter, written by Board member Friedman, on behalf of majority of board members, was submitted to the Mayor and Council regarding the 35% discrepancy in the R5/R6 zone.

PUBLIC COMMENT

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

No one came forward.

OLD BUSINESS

NEW BUSINESS

1. Edwin Matos
22 Beucler Place
Above Ground Pool

Chairman Stein stated Mr. Matos would like to build an above ground pool and needs a variance. He is asking for 42.4%, per the zoning official. Actually, the existing non-conforming coverage is 42.4% and is asking for 47.34%. The board's biggest concern with pools are drainage and runoff. There were 6 points the board engineer was concerned about in his letter dated June 20, 2023. Chairman Stein stated this includes: having a fence to enclose the pool, applicant needs to disclose method to dispose of the water in the pool, water from the proposed swimming pool to filtering equipment can't drain onto any adjoining properties, the proposed swimming pool can't drain into a public sanitary sewer, and if there will be any lighting around the swimming pool. Chairman Stein inquired if Mr. Matos will agree to all recommendations made by the board engineer, should the application be approved.

Board member Friedman stated that is not correct. He stated the plan shows lot coverage being requested is 47.34%

Mr. Edwin Matos, resident and applicant, stated he would like to get an above ground pool installed in his backyard for his kids. Mr. Matos stated there won't be any lighting by the swimming pool. Mr. Matos's response was he would comply with all recommendations.

Board member Smith inquired how the applicant is going to get rid of the basin water. It is not shown on the plan. He also inquired if they will go swimming at night and is concerned there will be no lighting. He asked Mr. Matos for confirmation that he was not told by the engineer he would not need a seepage pit.

Mr. Matos stated there isn't going to be any additional lighting as they already have lighting in the backyard. He had spoken with the board engineer and never spoke about a plan for seepage.

Chairman Stein stated a seepage pit isn't referenced according to the letter, and assuming one isn't necessary. It seems to appear a seepage pit is needed.

Mr. Matos stated he had pulled his application. He stated it's going to cost him \$8,000 just for going through the variance application process, even before he gets the swimming pool. He had personally spoken to Mr. Kong on the telephone for an hour. He had taken his money back and had stepped away when the town called him back. He had a conversation with both Mr. Ravenda and Mr. Kong. He was told his application was approved to be heard by the board without a seepage pit.

Chairman Stein stated they need to figure out where the water is going to go and that proper drainage is needed. The board can make it conditional, if everyone agrees, to get a drainage report from Joe Kong when he returns or the application can be carried to the next meeting.

Mr. Bondar stated the board can make it a condition of approval based on the conversation Mr. Matos had with Mr. Kong, the board engineer, regarding the drainage.

Board member Smith inquired the age of his kids. He inquired if he can shrink the size of the swimming pool a couple of feet. He wouldn't need a variance then.

Board member Friedman stated it's possible that Mr. Kong may say that no seepage pit is required because his letter does not require it. If the engineer's letter does not require a seepage pit, it is his view, that the application should be granted as is.

Board member Berger stated waiting until August will take away half of the summer. It's not fair to the kids.

Chairman Stein stated the swimming pool will hold a lot of water. There won't be a runoff issue. He would like to know how it will be drained when emptying it and it needs to be done properly.

Board member Morel stated the request is reasonable and doesn't have a problem with it.

Motion to Approve Application As Is

Motion By: Chairman Stein

Second By: Ms. Berger

All ayes. None opposed.

Board member Friedman stated applicant does need to present a drainage plan.

2. Howard & Jennifer Mittel
15 Regent Street
In-Ground Pool & Patio

Mr. Matthew Capizzi, attorney for applicant, stated they are before the board for a in-ground pool and patio, requiring a variance for impervious coverage. The coverage is 100% accountable due to the swimming pool. It has all the setback requirements and will have no impact to adjacent properties.

Sean McClellan, licensed engineer, stated he prepared the swimming pool plan dated February 1, 2023. The house is currently under construction and will be fully conforming when complete. There will be a permeable paver patio in the rear with a 760 sq. ft. swimming pool. It will be 10 ft. from the side yard and 12 ft. from the rear yard.

Chairman Stein inquired if they are aware there already was a swimming pool in the backyard. The previous owners had broken the pool with a sledgehammer, which must be buried.

Mr. McClellan stated they will be providing 1,100 gallons of storage, more than what is required. There will be drainage around the perimeter of the pool. The pool will catch the water. There will be a retaining wall along the side of the rear. The grade will be raised a maximum of 3 ft. There be 24 inches of gravel in front of the wall. The perimeter drain is all around the entire pool and goes to the seepage pit.

Board member Morel inquired how deep is the pool.

Mr. McClellan stated it is probably 8 ft. at the deepest portion.

Board member Berger inquired if there is a fence around the pool.

Mr. McClellan stated there is a fence around the pool.

Questions from Residents Within 200' and Beyond:

No one came forward.

Motion to Approve Application Based on Recommendations Made By Board Engineer

Motion By: Mr. Smith

Second By: Ms. Berger

All ayes. None opposed.

MOTION TO ADJOURN MEETING

Motion By: Mr. Smith

Second By: Mr. Morf

All ayes. None opposed.

Meeting was adjourned at 8:40 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk

Zoning Board of Adjustment