

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
AUGUST 7, 2023**

Chairman Stein called the meeting to order at 8:09 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, John Smith, Jose Morel, Jason Bergman, Marc Friedman, and Nishant Desai

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

**Also Present:** Gloria Oh, Zoning Board Attorney, Joseph Kong, Board Engineer, 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 – July 10, 2023**

**Motion By:** Mr. Smith

**Second By:** Mr. Morel

**All ayes. None opposed.**

**CORRESPONDENCE**

None.

## **OLD BUSINESS**

Resolutions:

1. Edwin Matos, 22 Beucler Place, Above Ground Pool

**Motion By:** Mr. Smith

**Second By:** Chairman Stein

**All ayes. None opposed.**

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

**Motion By:** Mr. Smith

**Second By:** Chairman Stein

**All ayes. None opposed.**

## **NEW BUSINESS**

Application:

1. National Council of Jewish Women  
1 South Washington Avenue  
Use Variance with Minor Interior Improvements

Board member Smith inquired why the applicant wasn't assessed a penalty fee when the taxes weren't paid on time. Taxes need to be current when applicant comes to the board.

Chairman Stein stated taxes have no bearing to the board.

John Conte Jr., attorney for applicant, stated he will confer with the landlord's attorney regarding the tax bill. The money generated from the store's sales goes to mothers, children, and families that are in need. It's been in Bergenfield for several years. They are proposing to relocate from 1 South Washington Avenue to 75 South Washington Avenue. Mr. Conte stated the building has been vacant. They are before the board because the town ordinance does not permit resale for this location.

Board member Friedman stated no variance is required. In a B-1 zone, schedule A allows for the sale of appliances, clothing, household furnishings, dry goods, furs, jewelry, and shoes. It also allows for a department store and gift shop. Mr. Friedman stated the applicant, according to the website, sells seasonal clothing, household items, jewelry, Judaica, and pictures. He stated those are permitted sales in a B-1 zone under schedule A for the zoning ordinance and no variance is required to sell those goods at the location Mr. Conti Jr. is talking about. It's a matter of statutory interpretation. He stated nowhere in schedule 1 does it say that the sale of goods in a B-1 zone has to be new goods. The governing body understood the difference between specifying the sale of old goods and new goods. The best way to determine what this ordinance means is to see how the borough has acted in the past. The applicant has been at the current location for many years and no use variance was required. Mr. Friedman stated it is clear to him that this is a permitted use and no use variance is required. However, there may be other code restrictions to get a permit.

Board attorney Oh stated she disagrees with Mr. Friedman's interpretation. Schedule A doesn't specify whether a thrift shop is permitted or not. According to the Zoning Official's letter, the application was denied because the store is a resale store. If it was a retail store, they would not be here. The board has a responsibility to hear the application based on the denial letter. The applicant noticed the property owners within 200', published in the newspaper, and is here to have their application hear. She advised the board members to hear the application and to determine to approve or not approve the application.

Chairman Stein stated, to him, resale is retail and there is no distinction being made.

Board member Smith agreed with Ms. Oh. He would like to hear the application and stated it is open to interpretation, which the board members have the right to their own interpretation.

Board member Morel stated if the application was sent to the zoning board, then they should hear it.

Board member Smith inquired when schedule A and schedule B were last updated. He suggested that the use variance may have not been required prior to when the store first opened and that it was grandfathered in prior to when the schedules were updated.

Michael Kauker, licensed planner, stated the application is for the sale of second-hand goods to be sold, which is what is currently sold at the present existing location. This is a retail sales use. The general definition of retail sale is the sale of goods and services to the general public. Mr. Kauker stated the permitted uses in the B-1 district include the sale of books, shoes, clothing, sporting goods, a gift shop, household furnishings, and music. The difference here is the items are slightly used. Antique stores, which are retail use, are also permitted. This is a retail use that is permitted in the zone.

**Motion that Retail & Resale Are the Same and Application is a Permitted Use in B-1 Zone**

**Motion by:** Mr. Friedman

**Second by:** Chairman Stein

**2 Ayes. 5 Nays.**

Chris Lantelme, Lantelme, Kurens & Associates, P.C., 101 West Street, Hillsdale, NJ, licensed engineer, stated he prepared the plan dated 6/20/23. The entrance to the property is on Legion Street with a municipal parking lot in the rear. There is also an entrance in the back of the building. Mr. Lantelme stated one of the issues brought up in the engineering review letter was that the handicapped parking spot is located all the way in the back of the parking lot on Legion Drive. He stated they can relocate it closer to the building. A ramp won't be needed. They are required to have 25 parking spaces and there are 26 parking spaces. They could add another handicapped parking space but they would lose one space. Mr. Lantelme stated there is some lighting in the parking lot by the rear entrance, some lights along East Main Street shining on the street, and some lights on the business establishments.

Board engineer Kong stated the applicant should comply with the two handicapped parking stalls, fully understanding they would be deficient by one parking stall. Mr. Kong stated one solution would be to consider making a ready charging station. That would be considered as two stalls. He leaves it up to the applicant. It should be noted that a parking variance would have to be applied for.

Mr. Conte Jr. stated the problem is they are not the landlord and would not have the ability to do it. They can request it from the landlord as the parking lot services three properties. It's better for his client to ask for the parking variance.

Board member Morel inquired if the calculations provided include the other two stores.

Mr. Conte's response was yes.

**Questions from Residents Within 200' and Beyond:**

Mary Sullivan, resident, inquired how long they have been at the current location.

Paula Star, current Co-President of National Council of Jewish Women, stated the organization is a community based, non-profit in Bergen County consisting of volunteers with a mission to improve the

quality of life for women, children, and families. They are non-sectarian. The money raised goes to a variety of Bergen County community non-profits and support programs, such as educational programs, and senior services. The resale shop is part of their fundraising and is a place to shop for quality, gently used clothing for very affordable prices. They have been at current location for about 18 years. Ms. Star stated they generally have two employees, sometimes a third. There may be 6-8 customers in the store at one time during a busy day, on average. Hours of operation are: Monday, Tuesday, Wednesday and Friday 10:30 am to 5:30 pm, Thursday 10:30 am to 7pm, and Saturday 10:30 am to 5:00 pm. They are closed Sundays. Ms. Star stated they store items that are out of season and items that are not ready to sell yet in the basement. There aren't any truck deliveries. All of the deliveries are dropped off by individuals. The only truck on the premises is the recycler which comes when needed and is parked for about 20 minutes. They have their own private hauler and a small dumpster.

Board member Morel inquired about the back door access to the store as it is not shown on the plan. Mr. Morel inquired where their dumpster will be placed as it will take up space in the parking lot.

Ms. Star stated there is an entrance/exit in the back of the store.

Mr. Smith stated the rear entrance needs to be ADA accessible.

**Questions from Residents Within 200' and Beyond:**

No one came forward.

David Bilow, licensed architect, Bilow Garrett Group, 161 Main Street, Ridgefield Park, NJ, stated the building is a corner lot with a footprint of 2,700 sq. ft. There is a rear entrance into the building from the parking lot in the rear. The parking lot is 6 ft. above the store. There is a platform you have to work through. The basement is a floor and a half below the parking lot and will remain as is for storage. The ADA access will be through the front of the building. The floor area will be decreased to 1,650 sq. ft. The 500 sq. ft. will be used as a sorting room. The entire sales area will be on the first floor and will be completely redone. Mr. Bilow stated there will be new air conditioning, new ceilings, new lighting, and new floor. There will be no changes made to the windows or the doors. The rear door will need to be improved to be adequate for deliveries and emergencies.

Board member Morel inquired if the location of the dumpster needs to be re-evaluated and needs to be cleared up.

Mr. Bilow stated it will be near the rear door.

**Questions from Residents Within 200' and Beyond:**

No one came forward.

Michael Kauker, licensed planner, stated he reviewed the plan, master plan, Bergenfield zoning ordinance, and looked at the surrounding area of the property. The property is a corner lot with frontage on S. Washington Avenue, E. Main Street, and Legion Drive. There are a variety of different uses that exist on Washington Avenue. Mr. Kauker stated adjacent to the property is a T-Mobile store, liquor store, a restaurant, and a specialty foods store. On the opposite side of the street, there's another vacant store, a jewelry store, and other retail stores. He stated across the street there is a medical office and a House of Worship. The use of the property is similar to other existing permitted uses. Mr. Kauker stated it is a good fit for the area and is less intrusive than a bowling alley or a fitness center. It doesn't conflict with any of the goals or objectives in the master plan. It supports goal number 3 and 4, and promotes purposes A and G, by complimenting other uses, in the master plan. The existing building can adequately accommodate the proposed use and contributes to the economic vitality of Bergenfield. The store provides affordable

shopping alternatives and benefits residents, students, and young professionals with cost effectiveness. A portion of the proceeds is used to help local charities. Mr. Kauker stated the subject property adequately accommodates the proposed use for the building and there is no substantial impact or detriment to the public good. The previous use of the building was a shoe store, Payless Shoe Store.

Chairman Stein inquired why they are moving.

Ms. Star stated the location provides a lot more visibility and foot traffic. It allows for a better layout of the merchandise and allow shelving on the walls. Ms. Star stated the building is of better quality with better parking that will allow customers better access.

**Questions from Residents Within 200' and Beyond:**

No one came forward.

**Comments from Residents:**

Jewel McKee stated she shops at the store and knows others that come from New York to purchase quality items for a reasonable price.

Mary Sullivan, resident, stated this is the only shop left in town that brings people in from other towns. She stated people with low incomes need a place like this one to shop at. She is confused why they need a variance, but there is a thrift store across from borough hall that sells used goods. She has visited the thrift store and donated a dress to the store. Ms. Sullivan stated there are 17 vacant stores in town. The town needs more retail and this store would be a wonderful fit.

Board member Morf inquired who owned the building. He inquired if the building will remain on the tax rolls and pay taxes.

Mr. Conte stated the owner is Winfred and George Pitkin Foundation Inc. Mr. Conte stated yes, they have owned the building for many years and will continue to pay taxes.

A recess was taken at 9:25 p.m. The meeting resumed at 9:30 p.m.

**Motion to Approve Application**

**Motion by:** Mr. Friedman

**Second By:** Mr. Morel

**5 Ayes. 2 Nays.**

**MOTION TO ADJOURN MEETING**

**Motion By:** Mr. Bergman

**Second By:** Chairman Stein

**All ayes. None opposed.**

Meeting was adjourned at 9:36 p.m.

Respectfully Submitted,



Hilda Tavitian, Clerk  
Zoning Board of Adjustment