

BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
October 16, 2023
8:00 p.m.

Chairman Shimmy Stein called the meeting order at: 8:00 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 that matter.

PLEDGE OF ALLEGIANCE

Led by Board Member Smith.

There was a moment of silence for the innocent victims in the Middle East.

ROLL CALL

Present: Shimmy Stein, Richard Morf, John Smith, Amnon Wenger, Jason Bergman, Marc Friedman, and Nishant Desai (arrived at 8:03 p.m.)

Absent: Sara Berger (excused) and Jose Morel (excused)

Also Present: Gloria Oh, Zoning Board Attorney, Joseph Kong, Zoning Board Engineer, Councilman Marc Pascual, Council Liaison 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.

APPROVE MINUTES OF PREVIOUS MEETING

Motion from board members to approve minutes – September 12, 2023

Motion By: Mr. Smith

Second By: Mr. Bergman

All ayes. None opposed.

CORRESPONDENCE

None.

OLD BUSINESS

None.

NEW BUSINESS

Applications:

1. Batya & Nathan Paul
56 Norfolk Street
Pool & Grilling Station

Chairman Stein stated there was a discrepancy of about 20% in the lot coverage. The applicant was before the board in 2008 for variance approval of the deck. He stated they can't move forward until they clarify what is actually on the ground.

Angelo Onello, licensed engineer, Onello Engineering, 5 Beechnut Street, Hillsdale, NJ, stated in his review of the original 2008 application, it did not take into account the driveway and walkways. At the time, pavers were not included in lot coverage. Everything included on this plan is existing conditions.

Chairman Stein stated, should the application be approved, it would be based on the percentage currently being asked.

Board engineer Kong stated when he reviewed the historical images, some time after the 2008 resolution was approved, the paver patio appeared at some time in 2010, without the board's knowledge.

Board member Wenger stated back then, no one would have counted the pavers. Mr. Wenger stated that they are all in agreement that they were operating under the conditions that were in place at the time.

Board member Smith inquired when the applicant applied for permits for the patio. The building department doesn't have any request for permits for a patio in the rear yard.

Mr. Onello stated at the time they built the patio, pavers were not considered coverage.

Mr. Paul, applicant, stated it was around 2010 or 2011. They would have never done anything without following the requirements either time, then or now. The patio area will be coming down.

Board member Smith stated the problem is lot coverage is not the same as it was in the memorialization of the resolution in 2008.

Chairman Stein stated right now he's asking for 67.58%, according to Mike Ravenda.

Board engineer Kong stated they would have to address the 10% increase for stormwater management. They can work out the numbers and the details.

Chairman Stein stated the calculation should be based on the 67%. He stated by putting in the pool, the applicant is changing the whole dynamic. He stated what he has now should not be considered since he is going for something bigger and different.

Board member Smith stated pool water is now considered part of lot coverage in the ordinance that was just passed.

Mr. Onello stated the original application that was approved with 33.6% was for the building only and did not include the driveway or the walkways. Some time later, the small patio in the back was put in. He explained pavers were not included in the lot coverage. Mr. Onello stated currently coverage is calculated as 57.2%. He stated with the removal of the back patio, the re-creation of the backyard with a swimming pool and spa, and another patio, will have an overall lot coverage of 67.58%. 392 sq. ft. will be water surface. The setback of the pool will be 6 ft. versus 10 ft., that being the requirement. The outdoor prep grilling station is proposed to have a 4 ft. setback, where 7.5 ft is required. Currently, there is no concern for stormwater runoff. Much of it drains in the back right corner to a small inlet that catches all of the runoff. Mr. Onello stated any overflow from the drywell will be piped to the existing system. The variances being sought are for the location of the pool and the setback for the grilling station. This is a normal, customary usage. There will be added landscaping.

Mr. Kong stated there is a new stormwater management ordinance that has been adopted by the borough that states the pool is considered part of impervious coverage. They will now be treating pools as asphalt, concrete. The drywell would have to be upsized.

Mr. Onello stated the proposed system is nearly twice the requirement and they generally oversize the drywell. They will add an additional 200 gallons to make it 1,000 gallons.

Chairman Stein stated the calculation needs to be changed. He inquired if the 6 ft. setback in the back could be moved forward.

Mr. Onello stated they will reduce the spa by 1 ft. and move the pool 2 ft., the variance requested would be 8 ft. versus 10 ft. required. It would be 9 ft. to the water line.

Mr. Smith stated a couple of years ago there was a grilling station on Spring Street that caught on fire. The house on the other side caught on fire also. He inquired how far off the property line is the grill. It's too close to the other person's property line. It's a non-conforming lot already and they are going to increase it even more. Mr. Smith stated the burden of proof is on the applicant which they have to show. He stated he doesn't see the positive criteria.

Board member Bergman inquired if the grilling station can be moved by the back wall.

Mr. Onello stated the location of the grilling station is proper. They will rotate the grilling station and place it at the southwest corner of the patio, facing the home. A variance of 6 ft. would still be requested, instead of 4 ft., what is currently being requested. The water's surface edge would be 9 ft. when the size of the spa is reduced, but the structure itself would be 8 ft. He stated with the pool shifted forward, the requested variance will not be 6 ft, instead of 8 ft.. The two changes in design will alleviate some of the concerns. The benefits are enhanced landscaping and enhanced stormwater control.

Board member Morf stated they should move the pool back 10 ft., eliminate the spa, and put the grilling station in the back.

Mr. Onello stated whatever the building code separation requirement is from the window well to the spa can be met by reshaping the spa accordingly.

Chairman Stein stated they are going to reshape the spa, move the grilling station to the back, the pool will be shifted by 2 ft, and the water line will be 9 ft. The seepage will be according to Mr. Kong's calculations.

Questions from residents within 200 feet and beyond:

No one came forward.

Motion to Grant Variances Requested Subject to Conditions Stated

Motion By: Mr. Wenger

Second By: Mr. Friedman

6 Ayes. 1 Nay.

2. Aaron & Tamar Joseph
75 Lee Place
An addition

Motion to Proceed with Hearing Application without Full Plans

4 Ayes. 3 Nays.

A 10 minute recess was taken at 9:03 p.m. The meeting reconvened at 9:15 p.m.

Motion to Carry Application to Next Month's Meeting Due to Not Having Full Plans

Motion by: Mr. Bergman

Second By: Mr. Smith

6 Ayes. 1 Nay.

3. DP Bergenfield, LLC
21 West Church Street
3 Story Residential Building

Chairman Stein stated the board has to retain a planner for this application.

Brian Chewcaskie, attorney from Cleary, attorney from Giacobbe, Alfieri, Jacobs, LLC, 169 Ramapo Valley Rd, Oakland, NJ stated the application proposes a three-story residential building with 8 units, one apartment set aside for affordable housing. There will be 6 two-bedroom apartments and 2 one-bedroom apartments with 15 parking spaces, where 14 spaces are required.

Board member Smith inquired if there is a reason they did not appear before the site plan committee.

Mr. Chewcaskie stated they provided to the committee but were not requested to come.

Board member Wenger recused himself from hearing the application due to a conflict as he has previously worked with the attorney's firm as counsel.

Board member Bergman recused himself from hearing the application as he used to work for one of the attorneys at the firm, Joseph Lagana.

Chairman Stein stated five affirmative votes are needed for the application to be approved and suggested the witness from Florida should testify tonight.

Mr. Chewcaskie stated he prefers to come back November 13, 2023 to begin with the testimonies.

Chairman Stein stated the application is carried to the November 13, 2023 meeting with no further notice necessary.

MOTION TO ADJOURN MEETING


Motion By: Mr. Smith

Second By: Mr. Bergman

All ayes. None opposed.

The meeting was adjourned at 9:30 p.m.

Respectfully Submitted,

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

Hilda Tavitian, Clerk
Zoning Board of Adjustment