

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
September 9, 2024**

Chairman Ben Cabrera called the meeting to order at 8:00 P.M.

OPEN PUBLIC MEETING STATEMENT

In compliance 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 themselves from participating in any discussion on this matter.

PLEDGE OF ALLEGIANCE

Led by Board member Smith.

ROLL CALL

Present: John Smith, Jose Morel, Jason Bergman, Ben Cabrera, Oriole Familia, and Nishant Desai

Also Present: Gloria Oh, Zoning Board Attorney, Joseph Kong, Zoning Board Engineer, Antonios Panagopoulos, Engineer from T&M Associates, and Hilda Tavitian, Zoning Board Clerk

Absent: Amnon Wenger (excused) and Yitz Novak

INTRODUCTORY STATEMENT

Read by Chairman Cabrera. 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 – August 5, 2024

Motion By: Mr. Smith

Second By: Mr. Morel

All ayes. None opposed.

CORRESPONDENCE

None.

PUBLIC COMMENT

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

Cristino Vilorio, 14 Glenwood Drive North, inquired what the time frame is to speak on any topic.

Chairman Cabrera stated there is no time limit. The Board will ask for final comments/concerns before the vote is taken. Questions are asked to the professionals testifying.

Board member Smith stated you will have the opportunity to ask the lawyer, applicant, and/or engineer your questions. They will answer it. It can't be in the form of a statement, it has to be questions. You have the opportunity to make a statement before the board votes.

Board member Morel explained the Public Comments portion is to ask about or discuss anything in general, not specific to anybody or any application. Mr. Morel stated during discussion of the application, the public will have the opportunity to ask questions directed to the lawyer, architect or engineer. Afterwards, there is a specific time to make general comments regarding an application.

Board member Bergman stated there is no time frame.

OLD BUSINESS

1. Resolution: Avi Silber, 72 Rector Court, Proposed Addition

Motion to Adopt Resolution

Motion By: Mr. Smith

Second By: Chairman Cabrera

All present voting in favor. None opposed.

NEW BUSINESS

1. Application: 16 Glenwood Drive North LLC
16 Glenwood Drive
Proposed New Single-Family House

Benjamin Wine, Prime & Tuvel, 1 University Plaza Drive, Hackensack, NJ, attorney for applicant, stated the property consists of a demolished site that previously housed a single-family residence and a garage that did not comply with several of the zoning ordinances and bulk requirements. The lot is a quarter circle shape that is unique and tough to develop in compliance with all the bulk requirements. Mr. Wine explained his client received approval from the Zoning Board two years ago for development of the site. At the time, he came before the Board without attorney representation and what he thought he got approval for was not what the Board was approving. The Board approved an application to expand the existing residence on the property and several bulk variances for the expansion. His client pulled a permit and demolished the existing house on the property, filed for construction permits to develop what he thought his approval was for, and was rightfully denied by the building department saying what was approved by the Board. They are before the Board tonight seeking approval for a new construction that has less variances and seeking less relief than what was previously approved two years ago. Mr. Wine stated they are now able to be compliant with the 5ft. setbacks, the 35% required building coverage, and the 3 required parking spaces. It is an application to fix the situation. They are proposing to develop a single-family house to comply with as many of the bulk variances as possible. There are two variances they are seeking, front yard setback and rear yard setback. The front yard setback, where 25 ft. is required and it is currently 15.5ft. to the garage structure, they are proposing 18ft. The required rear yard setback is 25ft. and to the pinch point, it is 13.9 ft. The impervious coverage is an existing non-conforming that will remain. They are proposing stormwater management improvements. Mr. Wine stated he had recommended a traffic engineer and will comply with the board engineer's comments.

Chairman Cabrera inquired if permits were obtained to tear down the former structure and if this is the same applicant that was before the Board in 2021. Time has gone by and since there is no structure, they will be starting from ground zero. It is a new construction and is looked at differently than a modification. There are also a couple of errors in the drawings submitted.

Mr. Wine stated there was a permit and will confirm. It was sold to someone else.

Board member Smith stated the application is for an addition and renovation. He inquired how it could be an addition and renovation if there is no building. The affidavit has one block/lot number and the drawings have a different block/lot number. There are questions on the application not answered and different signatures. He inquired why they don't shrink the size of the building so they don't require any variances. The law states that Planning and Zoning Boards should do everything in their power to bring non-conformities back into conformity. It is a great opportunity to bring back to conformity since there is no building there. Mr. Smith stated there are five bedrooms on the drawing as there is one room with a bed in the picture and there isn't any egress in the basement. There is also a discrepancy with the number of parking spaces needed. If this application is approved, there are fines that need to be paid. The 1,000 gallon retention basin is not enough based on his calculations.

Mr. Wine stated the only piece remaining is the garage structure that will be built into the new construction.

Board engineer Kong stated some variances are shown as existing non-conforming and how could that be if there is no structure. Mr. Kong stated they have to go back and address the required maximum coverage, 40% required, and what is being proposed. The way the variances are applied for and what the Board is going to approve for does not match what is being shown in the plans.

Mr. Cabrera stated the plans are the bulk of what influences the Board to make their decision and he doesn't see how the application can be approved the way it is presented tonight.

Mr. Wine stated the only condition that remains existing non-conforming is the coverage. The front yard and rear yard setback are what they are putting on testimony. He asked the Board to listen to the presentation.

Mr. Smith stated it is too big of a project on too small size of a lot. There are no measurements on the size of the rooms.

Chairman Cabrera stated they can listen to the professionals, but the applicant will probably be back next month. It is important the drawings be right. The approach has to be correct.

A five minute recess was taken at 8:40pm. The meeting resumed at 8:50pm.

Mr. Wine confirmed there was a demolition permit for this property and will submit a copy of it to the Board. They will clean up the application and requested to be placed on the October agenda to clear things up.

Chairman Cabrera stated they can also address the concerns of the community once the applicant comes back with a clear package.

Board engineer Kong stated, based on the current plan, parking is a concern, stormwater drainage has to be addressed, and soil testing needs to be done within the next month, if possible.

Board Attorney Oh stated she is in receipt of the proof of publication and proof of letters sent to property owners within 200 ft. The application can be carried to next month's meeting without further notice necessary. She requested the applicant submit revised plans at least a week prior to the next meeting.

Board member Bergman stated plans should be submitted by September 30, 2024 for the October 7, 2024 meeting. There will not be another letter sent to the residents about the hearing in October at the same time and same place.

Public Comments

Christino Vilorio, 14 Glenwood Drive North, stated the contractor just wants to make money regardless of the harm the new construction is going to create in the community. There are going to be flooding issues and create a blind spot of 210 ft. in the circle that will create accidents. He stated his understanding is the Board should have the best interest of the town residents.

Chairman Cabrera stated the reality is that as long as the building structure meets the required codes and ordinances, there is a limit to what the Zoning Board can do.

Board member Smith stated he goes to every Mayor & Council meeting and brings up the amount of damage done in town when trees are cut down and the overdevelopment. It's the governing body that make the ordinances. He encouraged Mr. Vilorio attend the Mayor & Council meeting and tell them his complaints and concerns. The Zoning Board doesn't set the ordinance.

Patrick Hogan, 11 Glenwood Drive North, stated the contractor knows the size of the lot, the codes and rules as he has previously built homes in town. The property has been a disgrace and is disgusting, with a large hole, garbage all over and high grass. There is no respect for the residents and there's going to be a blind spot created with the new construction. He too has an odd lot and wasn't allowed to build. He only put in a small addition.

Greg Martin, 62 Dudley Drive, stated he is against all the "hotels" being built. The overbuilding can't support the town's sewer and electrical systems. He stated every time it rains, the yards flood. The overbuilding needs to stop.

MOTION TO ADJOURN MEETING

Motion By: Mr. Smith

Second By: Mr. Bergman

All ayes. None opposed.

Meeting was adjourned at 9:10 pm.

Respectfully Submitted,



Hilda Tavitian, Clerk

Zoning Board of Adjustment