

**BERGENFIELD ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
December 2, 2024**

Chairman Ben Cabrera called the meeting to order at 8:03 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 a municipal public notice bulletin board 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, Amnon Wenger, Jose Morel, Ben Cabrera, Yitz Novak, Oriole Familia, and Nishant Desai

Also Present: Gloria Oh, Zoning Board Attorney, Antonios Panagopoulos, Zoning Board Engineer, Councilman Marc Pascual, Council Liaison, and Hilda Tavitian, Zoning Board Clerk

Absent: Jason Bergman

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 – November 4, 2024

Motion By: Mr. Smith

Second By: Mr. Wenger

All present voting in favor. None opposed.

CORRESPONDENCE

None.

PUBLIC COMMENT

No one came forward.

OLD BUSINESS

1. Resolution: Miriam Yael Wielgus, 111 Greenbriar Street, An addition

Motion By: Mr. Smith

Second By: Mr. Novak

All present, voting in favor. None opposed.

2. Applications: 16 Glenwood Drive North LLC
16 Glenwood Drive
Proposed New Single-Family House
Adjourned to January 6, 2025 Meeting

Board member Smith stated he would like to make a motion to deny the request to adjourn. It has been going on for too long. He is making a motion to have the applicant reapply and submit the paperwork promised back in October. They have been requesting postponement month after month.

Chairman Cabrera clarified that this was an application that was before the Board three years ago. It has been going back and forth. It is a waste of time for the Board members and the public.

Board member Wenger stated there are multiple people that come from town hearing after hearing only to learn that it has been adjourned, it is not fair. He agreed with Mr. Smith that the applicant needs to reapply at this point.

Motion to Deny Request for Adjournment and Reapply with New Application/Plans

Motion By: Mr. Smith

Second By: Mr. Wenger

All present, voting in favor. None opposed.

Ms. Oh will contact and inform the applicant’s attorney. The application is dismissed without prejudice.

Gloria Cruz
69 Mackay Drive
One Car Garage
Carried from November 4, 2024 Meeting

Earlene Cruz, applicant, stated they purchased the home a few years ago and haven’t been able to move in because of flooding that occurred two years ago. Water went into the basement and they were ill advised at the time to shut the front door so water wouldn’t continue to seep in. The house has been under construction with all required permits. Ms. Cruz explained the borough requires a garage and the goal is to fulfill it. They are requesting to have a one-car garage on the side of the home as it can’t be in the same area as before due to the flooding.

Board member Smith stated he still doesn’t understand that where the garage used to be is now living space and not getting water anymore. It is going to be used as a gym.

Ms. Cruz stated the space is vacant and not sure what can happen. They never said it will be a gym. It doesn’t feel like it can be used for living space as there is no heating or insulation. Ms. Cruz stated they

were going to use the space as a garage and had even purchased a garage door, but the drainage would not have been enough.

Chairman Cabrera stated he looked at a photo of the garage from January 2022 and inquired if it would have made sense to have drainage put in front of the garage.

Mr. Smith stated he doesn't see a difference in the new plan received from the old plan. He inquired where the change is.

Robert DePippa, licensed architect, 57 Kaufman Avenue, Little Ferry, NJ, stated the space that is in front of the kitchen was originally a one-car garage. The variances were added and the chart was revised on the new plan.

Board member Morel stated there weren't any changes made to the drawing.

Board engineer Panagopoulos stated there are several variances being requested. The minimum side yard setback is 20 ft. required, 10.3 ft. is proposed. The combined side yard setback is 40 ft. required, 32.47 ft. is proposed. The lot coverage is being increased to 67%, where 40% is required. The shed has to be a minimum of 3 ft. off the property line, where there is an pre-existing 1.85 ft. at the north property line. Mr. Panagopoulos stated the allowed driveway width is 25 ft., 36 ft. is provided. The allowed maximum curb cut is 25ft, where 21 ft. is provided. The zoning table does not provide the total lot coverage. He recommended drainage for the overage of some kind of retention. The calculations for the location and how big the system would be can be submitted after approval rather than now. There is 1/3 of the house missing in the plans. Mr. Panagopoulos stated information for the entire house should be provided in the architectural plans also. He requested the information in his letter dated 11/19/24, two weeks before the meeting. The space that used to be the garage is going to be used as an exercise room, insulated or not. This is a forgiveness application, where the applicant has illegally closed the garage without the proper permits while remodeling the existing house. The Board and applicant should understand should the application be denied, an additional variance of one parking space will be required unless the applicant is required to open the previous garage. Anything can be made into living space.

Mr. DePippa stated that's not a variance, it's an existing non-conforming. The area is currently paved. He stated all the architectural information was submitted to the building department and is public record. There is information being asked a couple of days before the meeting. He did supply a 11x17 copy of the original drawings when he submitted the 17 other copies.

Ms. Cruz stated there are five bedrooms. There's nothing in the basement right now. There's no exercise room, only one chair. There will be no bedrooms in the basement. You can stand straight up.

Mr. Smith inquired if the application is approved, what is going to stop the applicant from putting in ten bedrooms.

Chairman Cabrera stated they don't know the number of bedrooms there are on the second floor and there might be parking issues. The code requirement is there needs to be a certain number of parking spaces based on the number of bedrooms there are. They can't review this application without having sufficient information. He inquired what the coverage would be without a new garage.

Ms. Cruz stated there used to be pool house and is a bit raised.

Mr. Panagopoulos stated it would be the same.

Mr. Smith stated most plans show the bedrooms and he doesn't see that on the plans, which is problematic. The architect said he submitted it to the building department. The building department is not here and they only have the denial letter. Based on his experience, if the Board agrees to what was submitted, there is nothing to stop the applicant from making ten bedrooms.

Board member Morel stated the applicant is responsible for providing a certain number of physical copies for the Board members. The zoning survey is too small, making it hard to read, and he doesn't see the grade changes or the pool house on the plan. It's an incomplete package. The last time they were before the Board, they didn't have enough time to review it.

Mr. Panagopoulos stated, technically, the checklist items were complete. They don't do a detailed review until they have a complete application.

Chairman Cabrera inquired about how many cars can fit into the driveway without a garage. His main concern is what happens when you sell the house. It becomes overloaded with bedrooms and is not in line with the neighborhood. There's also the lot coverage and there being no boundaries. The Board doesn't have enough information.

Mr. DePippa stated five.

Ms. Cruz stated their intent is not to sell the house. There doesn't seem to be an alternative of where the garage would be and stated she is open to suggestions. There is evidence of flooding prior to them being there. The floods in the area are increasing at an exponential rate and they are here to try to find a solution.

Mr. Panagopoulos stated they would have to discuss it with their architect and engineer.

Mr. Smith stated they should get the right people to help them with a design. The by-laws say what kind of copies are supposed to be submitted. He inquired if it's the applicant's fault.

Public Comments:

Ken Brown, attorney on behalf of 79 Mackay Drive, stated the owner understands the flooding issues. The bigger issue is zoning and the standards of zoning need to be maintained. He cited case law that addresses zoning variances and substantial detriments. 79 Mackay Ave has to follow the zoning laws. Mr. Brown stated they are not satisfying any goals by approving the variances requested.

Board member Wenger stated some of the variances are existing non-conformities.

Board member Smith stated the Chairman had read a statement earlier that the Board is here to grant relief, but they also have a responsibility to listen to the residents in the area. The law states that the Zoning Board and Planning Board have to do everything in their power, if possible, to bring the area back into conformity. The odd shapes were different. The burden of proof to show hardship is on the applicant. Mr. Smith stated ignorance of the law is no excuse.

Chairman Cabrera stated as a Board, they control what moves forward. It's not the mandate of the Board to go back and change what's already been grandfathered. The Board is here to make sure the rules are followed.

Mr. Smith stated they listen to everybody and compromises will be made.

Mr. Wenger inquired if there any specific concerns the owner of 79 Mackay Ave has that would impact her property.

Mr. Brown stated 100 years from now, you want to leave something behind and don't want things to get out of hand. It's a beautiful town.

Deborah Williams, 79 Mackay Drive, stated she bought the house in 1987 and had a huge flood of 2 ft. of water in her basement in 2006. They renovated and put French drains in the basement. There was no flooding after 2006 when they put in the French drains. Her neighbor's driveway was dry. Ms. Williams stated about 7-8 months ago, she had gotten a foot of water in the garage. She put a pump in the garage a year prior to that that did not help. She stated she had an engineer look at the driveway and called DPW to solve the issue. They contracted with a company to pitch the garage differently, at least 70% downward fashion, and have it slowly pitched towards the driveway. A huge grade in front of the garage was replaced. She stated since then the basement and garage have been dry. They were able to make it dry while conforming with the law. The neighbors in the area have known each other over the years and get together to resolve issues. Today was the first time she met the owner of 69 Mackay Drive and they have been doing work on the house for four years. After living in the neighborhood for 40 years, she should not have to come to a meeting to resolve an issue.

Mr. Brown inquired if there are any engineering solutions for the flooding. Mr. Brown stated there isn't anything that can't be fixed. He's hoping there's an engineering solution that doesn't violate the zoning.

Ms. Cruz stated everything Ms. Williams said makes sense. They want to move in, but can't live there and get the CO until they build the garage. They consulted with multiple engineers and discussed the different pitching and gradience. This was the solution they were given and was told this is the way it had to be done. She agreed that things are better when discussed amongst neighbors, but they were not given that option.

Mr. Smith stated the French drain is a great idea.

Ms. Cruz stated there was one already there.

Chairman Cabrera stated they need to submit complete drawings and an engineer to come before the Board to say what can be done and what can't be done. He would like to understand why there can't be 5,000, 10,000, or a 15,000 gallon seepage pit.

Mr. Morel stated he would like to see topography.

Mr. Smith stated they should adjourn until the February meeting so their engineer can contact Mr. Panagopoulos and have enough time to get everything together.

Mr. Wenger suggested the applicant speak with the neighbors present at the meeting for any suggestions.

Motion to Adjourn Application to February Meeting with No Further Notice Necessary

Motion by: Mr. Wenger

Second By: Mr. Smith

All present, voting in favor. None opposed.

NEW BUSINESS

1. Applications: Gabriel Stone
12 Chovet Terrace
Proposed 2-Story Addition

Chris Blake, 150 Engle Street, Englewood, NJ, licensed architect, stated they are seeking an existing non-conforming side yard setback of 7.3 ft., where 7.5 ft. is required. They will be expanding 19 ft. to the rear, making the back of the house larger. The quality of the house will be improved. The combined side yard setbacks are 14.82 ft., where 15 ft. is required. They are proposing a small, covered porch in the front 20.6 ft. away from the property line, where 25 ft. is required. The porch will stick out a foot and a half. Mr. Blake stated it is open air and is compliant.

Board member Smith stated he doesn't see any retention basin in the drawing for the addition and the driveway.

Board engineer Panagopoulos stated the actual lot coverage is being reduced by 127 sq. ft. and would not require it. The front yard setback is being increased, where 25 ft. is required in R-6 standards, going to 20.6 ft. The existing side yard setback is 7.3 ft., which is not going to change. There is a stipulation that the combined setbacks on both sides need to be 15 ft. Mr. Panagopoulos stated this application has an existing combined setback of 14.82 ft. that will not be changed. They will be reducing the coverage from 37.3% to 35.4%, where 35% is allowed. The three parking spaces are what's required by RSIS. They are changing the existing driveway to a pervious paver system. As a condition of approval, the applicant needs to provide details of the system that will be used, the porousness, calculations and soil sampling. Mr. Panagopoulos stated the roof leaders should be placed in the front. The sidewalk will be need to be replaced, if broken and make sure to obtain permit for the fence, if the town requires it.

Mr. Blake stated they are building under the allowable lot coverage. It will be a nice upgrade to the building. The only reason they are before the Board is because of the existing conditions and the precariousness of the building. Mr. Blake stated they will comply with the engineer's and town's requirements.

Chairman Cabrera stated parking is not an issue.

Questions & Public Comments

No one came forward.

Motion to Approve Application with Conditions

Motion By: Mr. Smith

Second By: Mr. Wenger

All present, voting in favor. None opposed.

Ariel Forman & Elisheva Pfeiffer
117 Greenbriar Street
Proposed 1-Story & 2-Story Addition

Ariel Forman, applicant, 117 Greenbriar Street, stated they are proposing to add to the second floor a master bedroom and one other bedroom. They are also requesting to add a few steps in the front to move the front door up to reduce flooding after it rains.

Chairman Cabrera stated there are three variances being requested. There is an overhang which is 23.5 ft. off the curb, where 25 ft, is required, minimum both side yard is 5 ft., where proposed is 4 ft. 7 inches on

the left side and 4 ft. 8 inches on the right side, and the minimum both side yard is 10 ft., where proposed is 9 ft. 3 inches.

Board engineer Panagopoulos stated they are proposing a front yard setback of 23.5 ft, where 25 ft. is required, and the two other variances are existing, non-conformities. One is the 4.7 ft setback, where 5 ft. is required and the required 10 ft. both setbacks and they provide 9.5 ft, which is also existing non-conforming. Mr. Panagopoulos stated with the reduction of the impervious areas they are removing a patio in the back installing some pervious pavers, going from 42.18% to under 40%. The site meets the RSIS requirements of the three parking spaces. As a condition of approval, they will need to provide permeability testing and inspection of the driveway installation. Everything should be piped towards the grass on the front yard and sidewalk should be replaced if broken during construction.

Questions & Public Comments

No one came forward.

Motion to Approve Application with Conditions

Motion By: Mr. Wenger

Second By: Mr. Novak

All present, voting in favor. None opposed.

11 John Place, LLC
11 John Place
Proposed 2nd Story Addition

Board attorney Oh stated the application needs to be represented by an attorney as it is an LLC. The application can be carried to the next meeting without further notice necessary.

Karen Seliger, one of the partners of the LLC, stated they inquired what was required and they were told they didn't need an attorney. She requested to be heard after the other application so she could get an attorney to attend the meeting.

Zeevyah Benoff, Stein & Stein, LLP, 960 Teaneck Rd, Teaneck, NJ, attorney, stated the architect will discuss the application.

Doug Battersby, 4 Ramapo Rd, Oakland, NJ, licensed architect, stated the project is a renovation/alteration to the first floor, an expansion of second floor, and to finish the basement. The second floor will match the first-floor layout, with exception of the back of the house that will be a cantilever. It is an undersized lot in width. They are proposing a side yard setback of 5.4 ft., where 7.5 ft. is required. It's an existing footprint. They are proposing a combined side yard setback of 13.3 ft., where 15 ft. is required. It's an existing non-conformity. They are proposing 40.9% lot coverage, where 35% is required. Mr. Battersby stated they are reducing what is currently there now. The deck on the north side of the house will be removed as well as the old porch in the front of the house. The lot coverage will be in more conformance than before. They are proposing an improved lot coverage of 27.2%, which is an existing non-conformity of 30.1%. The coverage being added is for a window well on the north side for a basement bedroom and the AC pads for air conditioning units. The front walkway to the house will be reconfigured. There will be a total of six bedrooms. The driveway from the property line to the base of the garage is 54.10 ft. The requirement is for a 18 ft. long parking space, three cars in the driveway and one car in the garage. They are making it significantly better for the town, for coverage purposes.

Mr. Wenger stated all of the variances are existing non-conformities.

Mr. Panagopoulos inquired if they will cut any trees. If so, permits will be required and the trees will need to be replaced. The driveway should be replaced and the sidewalk replaced if damaged during construction as a condition of approval.

Mr. Battersby's response was no. Mr. Battersby stated they are in agreement with the Board engineer.

Questions & Public Comments

No one came forward.

Motion to Approve Application with Conditions

Motion By: Mr. Wenger

Second By: Mr. Familia

All present, voting in favor. None opposed.

Chairman Cabrera stated he discussed with Mr. Gallo regarding appointment of a Board Planner. He recommends using town's existing Planner and has requested to know specifically why a different Planner is needed for the Zoning Board. He will send an email to the Board members to get input as to why a specific Planner is required. Mr. Gallo is going to have shoulder surgery and will be out for several days. They probably won't be able to pick this up until the new year. The next meeting will be January 6, 2025.

MOTION TO ADJOURN MEETING

Motion By: Mr. Novak

Second By: Mr. Wenger

All ayes. None opposed.

Meeting was adjourned at 10:08 pm.

Respectfully Submitted,



Hilda Tavitian, Clerk

Zoning Board of Adjustment