

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
FEBRUARY 25, 2019

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, February 25, 2019, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:12 p.m. Commissioner Lombardi called the roll. Present at the meeting were Chairman Urban, Commissioners Adams, Dorans, Lombardi, Pineiro and Simmons. Commissioners Egan, De Ros, DiLullo and Pellitteri were absent.

Also present was Richard N. Campisano, Esq., Board Counsel, Robert Russo, PE, City Engineer's Office, Malvika Apt, PP, consulting City Planner and Lillian Glazewski, Board Administrator.

After the Pledge of Allegiance to the Flag, Chairman Urban declared a quorum and advised that the Board had complied with the Open Public Meetings Act/Sunshine Law.

Adoption of Minutes:

Commissioner Adams made a motion to adopt the minutes of the regular meeting held on January 28, 2019. Commissioner Pineiro seconded the motion and a unanimous vote of eligible members followed.

Communications:

None

Public Hearing:

Z-19-003 PITAMBAR SINGH - Site: 765 Avenue E in City Block 66, Lot 21 *[The applicant is seeking variance relief for fence height at the corner of the property.]*

Pitambar Singh, applicant, appeared before the Board pro se. Mr. Singh was sworn in to provide factual testimony in support of the application. Mr. Singh stated that he hired a contractor to replace the fence around his home (located on the corner) with a six- foot high fence. He said that he relied on the contractor to erect the fence and obtain the proper permits in conformance with the rules and regulations of the City Ordinance. He himself was unaware of what was needed to do so.

The exhibits that were pre-marked were moved into evidence.

Board questions:

Chairman Urban and Commissioner Adams questioned Mr. Singh.

Audience questions:

There were no questions from the general public.

Caucus:

Chairman Urban said that he feels that this was an oversight by the owner and he did not think the height of the fence causes any detriment to area.

Commissioner Adams said that he was troubled that no permits were pulled to construct the fence. He felt that by approving this application and allowing the applicant to maintain something that was never approved by the City nor any permits pulled, punishes other Bayonne homeowners who do comply and do the right thing.

Commissioner Pineiro agreed with Commissioner Adams and he is not in favor of this application.

Commissioner Dorans said that it is the contractor who is responsible for the oversight and he is in favor of the application.

Commissioner Simmons said that she is in favor inasmuch as no neighbors have appeared in opposition of this application.

Commissioner Lombari commented that the fence looks nice, however, there is a safety issue on a corner property with visibility and he is not in favor.

Commissioner Adams made a motion to approve the application and Commissioner Lombari seconded the motion. The following vote was taken and recorded:

Commissioner Lombari	Nay
Commissioner Adams	Nay
Commissioner Pineiro	Nay
Chairman Urban	Aye
Commissioner Dorans	Aye
Commissioner Simmons	Aye

The application, having failed to reach a majority vote was DENIED.

Public Hearing:

Z-19-002 MELISSA SCHWADERER MATHEWS – Site: 829 Kennedy Boulevard in City Block 143, Lot 24 *[The applicant is seeking bulk variances to be allowed to raise the roof of her home 3.6 feet and to convert the home into a two-family residence, which is a permitted use in the zone.]*

Melissa Schwaderer Mathews, applicant, appeared before the Board pro se and was sworn in to provide factual testimony in support of the application for bulk variances. Ms. Mathews offered her exhibits into evidence. She testified that she and her husband purchased the house at a sheriff's sale in July 2018. The house was in an unsafe condition because of the collapsing chimney and collapsing roof. Ms. Mathews said that the entire roof will be removed and rebuilt at the top floor. It is her desire to increase the height of the roofline beyond the

height allowed by the City Ordinance to be able to provide a therapy room for her five year old son who is autistic. In addition, she is requesting permission to convert the house into a two-family (which is permitted by Ordinance in this zone) to make room for their au pair. The entire house will be going through major renovations.

Board questions:

Commissioner Pineiro questioned Mr. Mathews.

Audience questions:

There were no questions from the general public.

Closing remarks:

In closing, Ms. Mathews asked the Board to look favorably on the application.

Board Caucus:

Chairman Urban said that he felt the applicant has met the criteria for approval.

Commissioner Adams said that he visited the site and it appears that substantial work will be done on the house and that the variances requested will not negatively affect the Zone Plan or Zoning Ordinance.

Commissioners Pineiro, Doran, Lombardi and Simmons concurred.

Commissioner Adams made a motion to approve the application and Commissioner Doran seconded the motion. A unanimous vote followed.

Public Hearing:

Z-18-031 CARA SQUARED, LLC – Site: 741-743 Broadway in City Block 139, Lot 17 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to construct a three-story seven (7) unit affordable housing apartment building.]*

Eugene P. O'Connell, Esq., attorney for the applicant said that the applicant is seeking approval to construct a residential building that is affordable to residents. He commented that most of the newly constructed apartments have very high rents. Mr. O'Connell offered his exhibits into evidence and called his first witness.

Witness:

John Inglese, AIA was sworn to provide expert testimony in support of the application. Mr. Inglese testified that he prepared the site plan for this application. He described the location of the site, the existing conditions and surrounding area. He reviewed the grading, drainage and utilities and addressed the location of the trash recycling containers and pick-up. Mr. Inglese also addressed the comments submitted by the City Engineer and talked about drainage and soil testing. With regard to the floor plan, Mr. Inglese said that the ground level units will all be ADA compliant.

Board questions:

Chairman Urban, Commissioner Adams and consulting City Planner Apte questioned Mr. Inglese,

Audience questions:

There were no questions from the general public.

Witness:

Charles Heydt, PP was qualified and sworn in as an expert witness to testify in support of this application. Mr. Heydt said that he reviewed the variances and waivers being requested by the applicant as part of the project. He discussed and provided justification for each of the variances, i.e., parking, lot coverage, usable open space, unit size and rear yard setback. Mr.

Heydt further testified that the site is particularly suited for the proposed use and it was his opinion that the applicant satisfied the requirements of the special reasons test.

Board questions:

Consulting City Planner Apte questioned Mr. Heydt.

Audience questions:

There were no questions from the general public.

Closing remarks:

Resident Jennifer Charles said that she supports this application because of the affordable rents. Residents Hugh Roarty and Roxanne Rayaosa also spoke in support of the application.

Eugene O'Connell, Esq., said that the testimony supports the application and that the project will be a great addition to affordable housing in Bayonne. Mr. O'Connell respectfully requested the Board look favorably upon this application.

Caucus:

Chairman Urban said that he feels that this is a positive development that will offer affordable renting units. He also said that the design of building will conform to neighborhood.

Commissioner Adams said that this use variance satisfies the positive criteria with no negative impact. He felt that the parking variance was justified and that the remaining bulk variances will not negatively impact the Zone Plan or Zoning Ordinance.

Commissioner Pineiro said that his concerns were satisfied during the testimony.

Commissioner Dorans commented that this is a fine example of what affordable housing should be.

Commissioners Lombardi and Simmons concurred.

Commissioner Adams made a motion to approve the application subject to any and all conditions agreed to and spread across the record. Commissioner Lombardi seconded the motion and a unanimous vote followed.

A short break was taken at 7:25 p.m. and the meeting resumed at 7:40 p.m. The roll was called.

Public Hearing:

Z-18-029 EHTISHAM RAHAT HUSSAIN – Site: 1031 Broadway in City Block 53, Lot 24 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to allow the construction of a three-story mixed use building containing commercial and four residential units.]*

Paul Weeks, Esq., attorney for the applicant, gave a brief opening statement, offered his exhibits into evidence and called is first witness.

Witness:

Raul Cabato, AIA was sworn to provide expert testimony in support of the application. Mr. Cabato gave an overview of the proposed project, the nature of the application and the site plan that was prepared by him. He described the building's dimensions and explained the location of the proposed handicapped accessible unit on the first floor. He described the proposed roof deck and the materials to be used for the project. Mr. Cabato testified that he reviewed the consulting City Engineer's report. He addressed the issues regarding ADA compliance; stormwater management and how refuse and recycling storage and removal would be handled both for the commercial and residential uses. He also addressed the Fire Sub Code Official's comments regarding fire safety.

Board questions:

Chairman Urban, Commissioners Adams, Lombardi and consulting City Planner Apte questioned Mr. Cabato.

Audience questions:

There were no questions from the general public.

Witness:

Ehtisham Rahat Hussain, applicant, was sworn to provide factual testimony in support of the application. Mr. Hussain testified that he has owned the property for two years. He addressed the issue regarding possible violations as a result of the open excavation and water collection and advised that he has been taking care of it but it is an ongoing issue because of pooling in the former basement.

Board questions:

Commissioner Adams and Chairman Urban questioned Mr. Hussain.

Witness:

Charles Heydt, PP, was sworn to provide expert planning testimony in support of the application. Mr. Heydt described the location of the property and the surrounding area. He provided testimony in support of the positive and negative criteria and said that the positive criteria outweighs the negative in support of this application. He addressed the comments made by the City Planner in her report. He further testified that granting of the requested variances will not impair the Zone Plan and Zoning Ordinance and the proposed use is appropriate.

Board questions:

Chairman Urban, Commissioner Adams and consulting City Planner Apte questioned Mr. Heydt.

Audience questions:

There were no questions from the general public.

Closing Remarks:

Paul Weeks, Esq., respectfully requested the Board approve the application.

Board caucus:

Chairman Urban said that he felt the proposed application was not too intensive a use in this area because only four units were being proposed.

Commissioner Adams pointed out that this is an undersized lot and he did not feel that there would be a negative impact to the zoning ordinance. He said that this is a good alternative.

Commissioners Pineiro, Dorans and Simmons concurred.

Commissioner Lombardi was not in favor of the application.

Commissioner Adams made a motion to approve the application subject to any and all conditions agreed to and spread across the record. Commissioner Dorans seconded the motion.

The following was the official vote:

Chairman Urban	Aye
Commissioner Adams	Aye
Commissioner Dorans	Aye
Commissioner Pineiro	Aye
Commissioner Simmons	Aye
Commissioner Lombardi	Nay

The application having received five affirmative votes was approved.

Adoption of Resolutions:

- **Z-18-020 FRANCINE TAGLIARENI (Interpretation/Appeal) – Site: 829 Kennedy Boulevard in City Block 264, Lot 22**
 - Commissioner Adams made a motion to adopt the resolution and Commissioner Dorans seconded the motion. A unanimous vote followed.
- **Z-18-027 - 265 AVENUE B, LLC – Site: 265 Avenue B in City Block 38, Lot 17**
 - Commissioner Lombardi made a motion to adopt the resolution and Commissioner Dorans seconded the motion. A unanimous vote followed.
- **Z-18-026 – 742-746 BROADWAY REALTY, LLC – Site: 9-11 East 33rd Street in City Block 140, Lot 1**
 - Commissioner Adams made a motion to adopt the resolution and Commissioner Dorans seconded the motion. A unanimous vote followed.
- **Z-18-024 CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE – Site: 323-329 Broadway in City Block 252, Lot 20**
 - Commissioner Adams made a motion to adopt the resolution and Commissioner Dorans seconded the motion. A unanimous vote followed.
- **Z-18-031 CARA SQUARED, LLC – Site: 741-743 Broadway in City Block 139, Lot 17**
 - Commissioner Adams made a motion to adopt the resolution and Commissioner Lombardi seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 8:30 p.m.

Susan Bischoff, Certified Shorthand Reporter, took a transcript of the meeting.

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