



**ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
NOVEMBER 16, 2020**

A virtual meeting of the City of Zoning Board of Adjustment was conducted by electronic means on Monday, November 16, 2020 as permitted during this State of Emergency due to the COVID 19 pandemic. It was conducted in accordance with all of the protocols and procedures set by the City of Bayonne and this Board in compliance with regulations issued by the State Department of Community Affairs for the conducting of open public meetings on a remote/virtual basis with use of a webinar-type platform.

The meeting was called to order by Chairperson Urban at 6:02 p.m. He led all in the Pledge of Allegiance to the Flag and declared a quorum. Chairman Urban advised that the Board has complied with the Open Public Meetings Act/Sunshine Law and as permitted during a State of Emergency as declared by Governor Phil Murphy. It was conducted in accordance with all of the protocols and procedures set by the City of Bayonne and this Board in compliance with regulations issued by the State Department of Community Affairs for the conducting of open public meetings on a remote/virtual basis with use of a webinar-type platform.

Secretary Lombari called the roll. Present at the meeting were Chairman Urban, Commissioners Adams, Lombari, DiLullo, DeRos, Pineiro and Gamal. Commissioners Calcaterra and Iapicca were absent.

Also present were Richard Campisano, Esq., Board Counsel, Robert Russo, PE, City Engineer, Malvika Apte, PP, consulting City Planner and Alicia Losonczy, Zoning Board of Adjustment Secretary.

Adoption of Minutes:

Chairman Urban called for the adoption of the minutes from the October 19, 2020 regular meeting.

- Commissioner Lombardi made the motion to adopt the minutes and Commissioner DeRos seconded the motion. A unanimous vote of eligible members followed.

Communications:

- The Department of Community Affairs remote meetings protocol for local public bodies during the declared emergency
 - Commissioner Lombardi made the motion to enter the protocol and Commissioner Pineiro seconded the motion. A unanimous vote followed.
- E-mail from Erica Edwards, Attorney for Application Z-20-008 – Goodman Lofts, LLC – Site: 21 – 25 West 20th Street in City Block 216, Lot 8
 - Commissioner Adams made a motion to adjourn the matter to the December 21, 2020 regular meeting. Commissioner Pineiro seconded the motion. A unanimous vote followed.

Communications:

- Correspondence from Peter Cecinini, Esq. attorney for applicant Z-20-017 – NL PROPERTIES, LLC – Site: 318 Avenue B in City Block 26, Lot 6 requesting the application be withdrawn

Presentation:

A Presentation of Zoning Ordinance modifications and the Long Term Control Plan, by Development Counsel, Joseph DeMarco, Esq., was scheduled but postponed until the December 21, 2020 meeting due to technical difficulties.

Public Hearing:

Z-20-016 – 46 WEST 22ND STREET, LLC – Site: 46 West 22nd Street in City Block 210, Lot 41 *[The applicant is seeking preliminary and final major site plan approval, use and bulk variance relief to convert the existing building for mixed use purposes, commercial on the ground floor with two residential units on the second and third floors.]*

John A. Zucker, Esq., attorney for the applicant, gave an overview of the application, offered his exhibits into evidence and called his first witness.

Witness:

Al Sambade, RA, PP, PE, of DAL Design Group, was sworn and testified on behalf of the applicant. He described the various drawings that were submitted as part of the application prepared by his firm. He testified that the structure would remain as it is with the exception of aesthetic improvements to the façade of the commercial unit. He described the proposed project, how the previous owner had vacated the ground-floor commercial use and was converted to a residential unit. Mr. Sambade also described the two residential units above on the second and third floors. Mr. Sambade testified there would be minimal exterior changes to the building as they requested to go back to a commercial use permissible within the C-1 on the ground floor and have one residential unit on the second floor along with one residential unit on the third floor.

Board questions:

Chairman Urban, Commissioner DeRos, Adams and Gamal questioned Mr. Sambade.

Audience questions:

There were no audience questions.

Closing remarks:

John Zucker, Esq., said that he would rely on the testimony provided by Mr. Sambade and he respectfully requested the Board approve this application.

Caucus:

Chairman Urban said that this is a mixed-use area and the current appearance of the building is very run-down. He felt this project represents a positive improvement to the neighborhood and will, therefore, be voting in favor of it. All commissioner concurred with Chairman Urban.

Motion:

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

Public Hearing:

Z-20-007 – IGLESIA PENTECOSTES CRISTO VIVE CORP – Site: 233 Broadway in City Block 46, Lot 46 *[The applicant is seeking preliminary and final major site plan approval along with use and bulk variance relief to allow a House of Worship at the site.]*

Michael Goodman, Esq., attorney for the applicant, gave an overview of the application, offered his exhibits into evidence and called his first witness.

Witness:

Richard B. Schommer, Jr., P.E., P.P., was sworn and testified on behalf of the applicant in his capacity as a planner and engineer that the use as a church at this location would not be detriment to the Zone plan. He reviewed the site and the plans for the site. Mr. Schommer reviewed the Zoning and variances connected with this application and said the variances requested were primarily dimensional. He further indicated this was not a standard size church,

rather a community-oriented facility geared towards the local community it was going to serve. He talked about how the applicant used its best efforts to provide as much off-street parking as required. He testified that there are currently (20) twenty congregated but the most they would allow would be (30) thirty congregates and this could be incorporated as part of the approval if provided. It was his testimony the applicant complied with the positive criteria because it was inherently beneficial. He indicated the proposed use advances the public welfare and satisfies the positive criteria for the use variance sought. The application furthers the purposes of zoning by providing sufficient space in the appropriate location for this use. The planner further testified that the applicant had satisfied the negative criteria because there were no substantial detriments to the character of the neighborhood, the building was existing.

Board questions:

Chairman Urban, Commissioners Lombardi, DiLullo and Gamal questioned Mr. Schulman. Consulting City Planner Malvika Apte, PP, AICP, questioned Mr. Schulman.

Audience questions:

There were no audience questions.

Witness:

Janet Rodriguez, a Trustee and Secretary of the church, testified that she was familiar with the operation of the church. The congregation consists of twenty members (20) with nine adults and eleven children. She stated that the congregation primarily lives in Bayonne, except for herself and would come to services by use of a church van, drive or use mass transit. She testified that the van held eight people and could make multiple trips to pick up worshippers if necessary. Ms. Rodriguez represented that there would be no cooking on site, no special events and no employees. The basement would be used strictly for storage.

Board questions:

Chairman Urban, Commissioners Pineiro, DiLullo and consulting City Planner Malvika Apte, PP, AICP, questioned Ms. Rodriguez.

Audience questions:

There were no audience questions.

Witness:

Brian Intindola, P.E., C.M.E. of Neglia Engineering Associates, was sworn and qualified as an expert witness. He reviewed the use and the parking requirements pursuant to the municipal ordinance. He testified that the use would require nine parking spaces and that the use of the church van would help to alleviate the actual parking demand. He also offered his opinion that the congregation being local would not need the amount of parking because of mass transit availability in the area.

Board questions:

Chairman Urban, Commissioner DiLullo and consulting City Planner Malvika Apte, PP, AICP, questioned Mr. Intindola.

Audience questions:

There were no audience questions.

Closing remarks:

Michael Goodman, Esq., said that he would rely on the testimony provided by his experts and he respectfully requested the Board approve this application for a small church as the applicant has met the requirements for a use variance as per the Municipal Land Use Law.

Closed Caucus:

Chairman Urban said that if the conditions discussed would be set forth across the record, he would be in favor of this application.

Motion:

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

Public Hearing:

Z-20-018 – 1044 BROADWAY – Site: 1044 BROADWAY, LLC City Block 46, Lot 46 *[The applicant is seeking a Certificate of Non-Conformity from the Zoning Board of Adjustment for the continued multi-use of five residential units and one ground-floor commercial unit.]*

Pasquale Agresti, Esq., attorney for the applicant, gave an overview of the application, offered his exhibits into evidence and called his first witness.

Witness:

Nathan Yarmush, was sworn and testified that he works directly with the owners of the property as he is the property manager. He said that the CCO from the City listed the property as commercial and (5) five residential units. He described the property as it is presently configured and used the pictures to aid in the presentation. The photographs were described to the Board and attention was drawn to the age of the interior and exterior of the ground floor. Mr. Yarmush testified that that the applicant would not be making improvements to the façade but would be willing to consider reasonable improvements to make the first-floor apartment handicap accessible.

Board questions:

Commissioner Adam and DeRos questioned Mr. Yarmush.

Audience questions:

There were no audience questions.

Closing remarks:

Pasquale Agresti, Esq., said that he would rely on the testimony provided by Mr. Sambade and he respectfully requested the Board approve this application.

Closed Caucus:

Chairman Urban said that the Certificate of Non-Conformity should be granted and will vote in the affirmative for this application. All commissioner concurred with Chairman Urban.

Motion:

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

Adoption of Resolutions:

• **BAYONNE ZONING BOARD OF ADJUSTMENT – RESOLUTION ESTABLISHING STANDARD PROTOCOLS FOR REMOTE PUBLIC MEETINGS HELD DURING A GOVERNOR-DECLARED EMERGENCY**

- Commissioner Adams made a motion to adopt the resolution Commissioner Pineiro seconded the motion. A unanimous vote of eligible members followed.

A motion was made to close the meeting at 9:48 p.m.

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

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