



**ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 16, 2023**

A regular in-person meeting of the Zoning Board of Adjustment was held on Monday, October 16, 2023, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Adams called the meeting to order at 6:09 p.m. and led all in the Pledge of Allegiance to the Flag. Chairman Adams declared a quorum and advised that the Board has complied with the Open Public Meetings Act/Sunshine Law.

Secretary Lombari called the roll. Present at the meeting were Chairman Adams, Vice-Chairman DiLullo, Secretary Lombari, Commissioners Pineiro, Sisk-Galvin, Lubach, Frain, and Garvey. Commissioners DeRos, Contey and Elgarhi were not present.

Chairman Adams welcomed Commissioner Ian Garvey as the newest addition to the Board. Also present were Richard Campisano, Esq., Board Counsel, Robert J. Russo, PP, City Engineer, and Alicia Losonczy, Zoning Board of Adjustment Administrator.

Adoption of Minutes:

Chairman Adams called for the adoption of the minutes from the September 18, 2023 regular meeting.

Commissioner DiLullo made the motion to adopt the minutes and Commissioner Pineiro seconded the motion. A unanimous vote of eligible members followed.

****Commissioner Sisk-Galvin recused herself from the next application to be heard.***

Item VI:

Z-23-006 – TEMPLE BETH AM – Site: 105-119 Avenue B; BLOCK 91, LOT 11 *[The applicant is seeking preliminary and final minor subdivision approval to subdivide the existing 18,750 square foot lot into two new lots so as to separate the synagogue (14,370 sf lot) from the single-family dwelling (4,020 sf lot) along with variance relief.]*

Christopher Vitale, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits. Mr. Vitale advised that this is a pre-existing nonconformity, and the applicant intends to subdivide the lot into two lots to release the burden of the single-family home that is no longer used as a parsonage.

Witness #1:

Murray Blackstone, Member of the Board of Trustees and Executive Committee, testified that he has been a member of the Board for ten years and a member of the Temple since 1965. He advised that the building was constructed in 1953 and the single-family home on the side of it was built as a parsonage five years thereafter. He advised that there is currently no rabbi residing in the home. The intention is to subdivide and sell the house since it is no longer needed.

Board Questions:

Chairperson Adams questioned Mr. Blackstone.

Audience questions:

There were no questions from the audience.

Witness #2:

Steven Kawalek, Architect licensed in the state of New Jersey, was recognized as an expert witness, and provided a brief overview of the proposed subdivision of the preexisting nonconformity located in the R-2 zone. He advised that since the applicant is not using the one-family house, the proposal is to subdivide the existing lot into two new lots, thus, allowing the applicant to then sell the home. Mr. Kawalek testified that the positive criteria greatly outweigh any negative criteria and felt if approved, this application would benefit the overall public good for the City of Bayonne.

Board Questions:

Chairperson Adams asked Mr. Clavelli to address any concerns in his report with Mr. Kawalek. Mr. DiLullo questioned Mr. Kawalek.

Audience questions:

There were no questions from the audience.

Closing Statement from Attorney:

Mr. Vitale summed up the application and requested the Board vote favorably upon this application.

Closed Caucus:

Chairman Adams stated that he would be in favor of this application. Mr. DiLullo advised that he would not be in favor of the changes proposed to the pre-existing nonconformity.

Motion:

Commissioner DiLullo made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Pineiro seconded the motion.

The following vote to approve the application was taken at the hearing on October 16, 2023:

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[]	[X]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[]	[]	[]	[X]	[]
Cindi Sisk-Galvin	[]	[]	[X]	[]	[]	[]
Susan Contey	[X]	[]	[]	[]	[]	[]
Edward Lubach, Jr.	[X]	[]	[]	[]	[]	[]
Thomas Frain	[X]	[]	[]	[]	[]	[]
Islam Elgarhi	[]	[]	[]	[]	[X]	[]
Ian Garvey	[X]	[]	[]	[]	[]	[]

****Commissioner Sisk-Galvin rejoined the Board at the dais.***

Item VII:

Z-23-004 – 161 BROADWAY, LLC – Site: 161 Broadway; Block 330, LOT 12 *[The applicant is seeking preliminary and final major site plan approval along with use and bulk variance relief to renovate the property to include one ground floor commercial space and two residential duplex units.]*

Christopher Vitale, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits.

Witness #1:

Victor Malerba, Jr., Architect licensed in the state of New Jersey, was sworn in and accepted as an expert witness. Mr. Malerba testified to the overall proposal for this property. He described that there would be one commercial use on the ground floor and two residential units. Mr. Malerba explained new windows will be added, the façade will be upgraded, and the trash will be housed in the basement and taken out by property management on proper trash collection days. Mr. Malerba advised that a street tree will be added to the project site and there is no awning or protrusions proposed to go into the right of way.

Board Questions:

Chairperson Adams, Commissioners DiLullo, Pineiro and Sisk-Galvin questioned Mr. Malerba.

Audience questions:

Michael Barone, 9 West 5th Street, questioned Mr. Malerba.

Witness #2:

Michael J. Pessolano, Planner licensed in the state of New Jersey, was recognized as an expert witness and provided a brief overview of the proposed project. He discussed the variance for the ground-floor residential use and the side yard setback variance. Mr. Pessolano submitted an additional exhibit; A-23 Two-page photo exhibit and discussed the proposed concept. He advised that this application meets the needs of the community by turning this area around to make it more vital. Mr. Pessolano testified that the positive criteria greatly outweigh the negative criteria and promotes aesthetics in the neighborhood.

Board Questions:

Chairman Adams, Mr. Clavelli and Mr. Russo questioned Mr. Pessolano.

Audience questions:

There were no questions from the audience.

Return of Witness #1:

Mr. Malerba returned and advised that the pervious coverage would go from 100% to 55%.

Statements from the Audience:

Michael Barone made comment that he has had problems with the construction.

Closing Statement from Attorney:

Mr. Vitale summarized the application and requested the Board vote favorably.

Closed Caucus:

Chairman Adams stated that he wanted to stress that the Zoning Board cannot address construction complaints, only the zoning variance. He advised that that stretch of Broadway has newly renovated storefronts and the property for this application is an eyesore; updating it would have a very positive effect on the neighborhood. Mr. Adams advised that given the evidence provided today for this application, he would be voting in favor of this application and his fellow Commissioners concurred provided that the conditions of the stormwater, using the easement for emergency purposes only and refuse should be held in the basement until the property manager places it on Broadway for removal.

Motion:

Commissioner DiLullo made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Lombardi seconded the motion.

The following vote to approve the application was taken at the hearing on October 16, 2023:

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[]	[]	[]	[X]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Susan Contey	[]	[]	[]	[]	[X]	[]
Edward Lubach, Jr.	[X]	[]	[]	[]	[]	[]
Thomas Frain	[X]	[]	[]	[]	[]	[]
Islam Elgarhi	[]	[]	[]	[]	[X]	[]
Ian Garvey	[]	[]	[]	[]	[]	[X]

Item VIII:

Z-23-014 – HENRY BUDNY – Site: 14 Prospect Avenue; Block 460, LOT 16 *[The applicant is requesting a parking variance in order to convert the premises back to a two-family residence.]*

John Zucker, Esq., attorney for applicant, gave an overview of the application and asked the Board to accept his exhibits.

Witness #1:

Henry Budny, is the property owner and advised that he purchased the property in 2017. He said that the house is approximately one hundred and thirty years old and was historically used as a two-unit dwelling. He received a temporary Certificate of Occupancy for a two-family. Mr. Budny said that he wanted to update some of the windows and new siding to make it look nice. He said it is an old house and he is committed to making it code-compliant and safe.

Board Questions:

Chairman Adams, Commissioners DiLullo and Lombardi questioned Mr. Budny.

Audience questions:

Mark Schutte, owner at 12 Prospect Avenue, has owned this property for twenty-five years.

Witness #2:

Michael Pessolano, a Planner licensed in the state of New Jersey, was recognized as an expert witness and described the characteristics of this particular house. He described the upgrades proposed and the variances due to preexisting concerns mentioned in the City Planner's report. Mr. Pessolano discussed the parking variance and advised that the Hudson Bergen Light Rail is nearby. He testified that the proposal would bring more harmony to the block and feels the positive criteria outweighs the negative criteria.

Board Questions:

Mr. Clavelli commented at the request of Chairman Adams. Mr. DiLullo questioned Mr. Pessolano.

***A short break was taken at 7:59. A roll call was taken when the meeting resumed at 8:12.**

At this time, Mr. Zucker advised that testimony will be provided in regard to a use variance for this application. Mr. Pessolano asked the Board to accept a new exhibit, A-19 Planning Exhibit and discussed the four pages in it. He mentioned that the property is located in the Transit Development District and discussed the use variance being sought by his client at this time.

Board Questions:

Mr. Clavelli made comment.

Audience questions:

There were no questions from the audience.

Statement from the Audience:

Mark Schutte made comment regarding this application.

Closing Statement from Attorney:

Mr. Zucker summed up the application and requested the Board vote favorably upon this application.

Closed Caucus:

Chairman Adams stated that the proofs offered by the applicant complies with the ordinance and the applicant has met their burden to have the variances granted and his fellow Commissioners concurred.

Motion:

Commissioner DiLullo made a motion to approve the application subject to any and all conditions spread across the record. Commissioner Pineiro seconded the motion.

The following vote to approve the application was taken at the hearing on October 16, 2023:

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[]	[]	[]	[X]	[]
Cindi Sisk-Galvin	[X]	[]	[]	[]	[]	[]
Susan Contey	[]	[]	[]	[]	[X]	[]
Edward Lubach, Jr.	[X]	[]	[]	[]	[]	[]
Thomas Frain	[X]	[]	[]	[]	[]	[]
Islam Elgarhi	[]	[]	[]	[]	[X]	[]
Ian Garvey	[]	[]	[]	[]	[]	[X]

Item IX: Adoption of Resolutions:

• **Z-22-013 – MICHAEL ALVAREZ – Site: 215 Prospect Avenue; Block 421, Lot 18**

- Commissioner DiLullo made a motion to dismiss without prejudice
Commissioner Pineiro seconded the motion.

The following vote to memorialize the resolution was taken at the hearing on October 16, 2023:

RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[]	[]	[]	[X]	[]
Cindi Sisk-Galvin	[]	[]	[X]	[]	[]	[]
Susan Contey	[]	[]	[]	[]	[X]	[]
Edward Lubach, Jr.	[X]	[]	[]	[]	[]	[]
Thomas Frain	[X]	[]	[]	[]	[]	[]
Islam Elgarhi	[]	[]	[]	[]	[X]	[]
Ian Garvey	[]	[]	[]	[]	[]	[X]

- **Z-23-008 – ANTHONY CANTALE TESTAMENTARY TRUST – Site: 428 Kennedy Boulevard; Block 245, Lot 51**
 - Commissioner DiLullo made a motion to dismiss without prejudice
Commissioner Pineiro seconded the motion.

The following vote to memorialize the resolution was taken at the hearing on October 16, 2023:
RECORDED VOTE:

<i>Commissioners</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recuse</i>	<i>Absent</i>	<i>Not voting</i>
Clifford Adams	[X]	[]	[]	[]	[]	[]
Nicholas DiLullo	[X]	[]	[]	[]	[]	[]
Louis Lombardi	[X]	[]	[]	[]	[]	[]
Joseph Pineiro	[X]	[]	[]	[]	[]	[]
Arrigo DeRos, Jr.	[]	[]	[]	[]	[X]	[]
Cindi Sisk-Galvin	[]	[]	[X]	[]	[]	[]
Susan Contey	[]	[]	[]	[]	[X]	[]
Edward Lubach, Jr.	[X]	[]	[]	[]	[]	[]
Thomas Frain	[X]	[]	[]	[]	[]	[]
Islam Elgarhi	[]	[]	[]	[]	[X]	[]
Ian Garvey	[]	[]	[]	[]	[]	[X]

Item X: Executive Session:

As needed to discuss litigation, personnel or other matters.

The meeting adjourned at 8:45 pm. Certified Shorthand Reporter Susan Bischoff, of 449 Columbia Boulevard, Wood-Ridge, NJ 07075, took a transcript of the meeting.

/akl