

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on October
5, 2021, via Zoom.

PRESENT: Dennis Posen, Chairman
Richard Ehrenberg
Joseph Panzella
Michael Pilsbury
Lawrence Ross
Alexander Vierheilig
Jennifer Eby, Alternate 1
Lawrence Weiss, Alternate 2
Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT: Jeffrey Lester, Vice Chairman

Mr. Posen called the meeting to order, and upon roll call, the above Members were present.

Mr. Lester gave notice that he would not be able to attend this meeting.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

It was noted that Ms. Eby was now a full member of the Board and Mr. Weiss was an alternate.

In essence, the following transpired.

ACCEPTANCE OF THE MINUTES

The minutes of the August 2021 meeting were reviewed.

Mr. Weiss asked that the minutes be amended to say that Mr. Pilsbury also said that they needed to research to reaffirm and to be consistent.

He also asked that the minutes showed Mr. Pilsbury voted "Aye" on the Buckner Application.

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on October
5, 2021, via Zoom.

Mr. Ehrenberg moved to accept the minutes as amended, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Mr. Pilsbury and upon voice vote, was unanimously carried.

Mr. Weiss asked that page 41, third paragraph of the minutes be amended to say that Mr. Pilsbury also said that they needed to do research to reaffirm and to be consistent.

He also asked that the minutes showed Mr. Pilsbury voted "Aye" on the Buckner Application.

Mr. Ehrenberg moved to accept the minutes as amended, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Mr. Pilsbury and upon voice vote, was unanimously carried.

BUCKNER MEMORIALIZING RESOLUTION ADJOURNMENT

Mr. West announced that Mr. Tafuri had contested some of the verbiage in the Memorializing Resolution and, therefore, wished to order a transcript of the hearing transcribed by a court reporter. Mr. West said that until they received the transcript for review, Mr. Tafuri was asking for the Resolution to be adjourned for another month.

Mr. Posen entertained a motion to accept the request for an adjournment of the vote on the Resolution for one month depending upon the receipt of the transcript.

Mr. Vierheilig so moved.

Seconded by Mr. Ehrenberg and upon voice vote, all members voted "aye."

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

AUDO APPLICATION

Mr. Posen announced that the notices were appropriate and in place.

Mr. West marked the following Exhibits into evidence:

- A-1 Building Official's Letter of Denial dated 5/3/21
- A-2 Survey dated 10/10/02
- A-3 Site Plan dated 5/12/21

Mr. Posen explained the process.

Mr. Wetarie Audo, of 156 Valley Road was sworn in.

Mr. Audo said that there had been another application in 2005 relating to the deck and it had been approved at that time. He said that because of some personal reasons, they gave up the project at that time. Mr. Audo said that after the pandemic, they realized that they needed the variance for the deck in order to have physical and mental wellbeing.

Mr. West advised that an approved Zoning Application has a one-year shelf life and then time expires.

Mr. Posen noted that the Board was treating this as a totally new application.

The applicant said that they proposed taking out the concrete pad in the back and replacing it with ground cover in order to reduce the impervious coverage on the property.

Mr. Posen noted that the subject property was an under-sized lot and it in-and-of-itself, it would create a hardship. He said he felt it was a modest and appropriate application.

Upon questioning, the applicant said he did not think that anything had changed around him with regard to the neighborhood structure that would make this application today different to what it was in 2005.

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

Mr. Ehrenberg pointed out that he could not see a house number on the structure.

It was noted that the subject property was 3% over on building coverage, 8% over on impervious coverage, and there was also an encroachment. Further, the building coverage had increased the impervious coverage had decreased, and the application was for an extension of the back porch.

There was discussion relating to photos submitted of that area.

Mr. West referred to the Site Plan with notations by the Borough Engineer. He said they would be sent to the Borough Hall.

There were questions about about the size of the deck.

Mr. Ross stated that he felt this was straight forward and reasonable.

Mr. Ehrenberg added that the application was made by reasonable people and he could see no reason to deny this applicant since it would not be a detriment to the community.

There was not further discussion.

Mr. Pilsbury moved to approve the variance.

Seconded by Ms. Eby and upon roll call, the vote went as follows: Yes - Mr. Pilsbury, Ms. Eby, Mr. Ehrenberg, Mr. Panzella, Mr. Ross, Mr. Vierheilig, and Mr. Posen; No – none. Motion carried.

Mr. Posen explained the process to Mr. Audo.

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

TERRACE STREET APPLICATION.

Allen Bell, of the Muhler Law Group in Tenafly, NJ, appeared on behalf of the applicant.

Mr. Bell stated that what is being proposed by the applicant was a deviation from the Ordinance. The subject property is located at 160 Terrace Street, it is an office building and the applicant would like to renovate and convert the offices into apartments. The Borough has unmet needs with regard to Fair Share Housing and the applicant has provided the opportunity for helping to meet that number with some designated apartments. Mr. Bell explained that the second floor can be converted into apartments but they have to work on the parking requirement.

Jerry Growney, of 4 Burkhardt Lane, Old Tappan, was sworn in. He said he was the managing member of Terrace Street Holdings for 35 years. Mr. Growney said that the subject property was located on the second floor of the office building. There was a commercial office on the first floor and the New Jersey Multiple Listing Services on the second floor with a total of 6,072 sq. ft. on both floors.

Mr. Growney said he was proposing a total of 8 apartments on the second floor with 2 being Affordable Housing Units. He explained that the variance would relate to 13 parking spaces on the side and other parking being available in the immediate vicinity including Terrace Street on the West side, St. Nicholas Avenue, Houston Place, and 35 spaces in the Borough lot.

Mr. Growney said there had been 15 to 20 people in the Multiple Listing Service office every day and there was never any problem with parking.

Mr. West marked the following Exhibits into evidence:

- A-1 Letter of Denial dated 6/20/21
- A-2 Letter from Mr. Hubschman dated 6/9/21
- A-3 Site Plan with 1 page by Mr. Hubschman
- A-4 2-page Lay-out by Cusanelli & Filletti Architects dated, 1/22/21
- A-5 Additional page dated 10/5/21

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

Upon questioning by Mr. Posen, Mr. Bell stated that the 13 spaces controlled by Mr. Growney would be open. He said that the businesses there were closed in the evening so the intention was not to reserve specific spaces.

Mr. Victor Filletti, of Cusanelli and Filletti Architects at 143 Terrace Street, was sworn in. He went over his education, experience, certifications, licenses in New York and New Jersey, and his experience. He was offered as an expert in architecture and accepted by the Board.

Mr. Filletti said that they proposed converting the second floor of the building into a dwelling of one and two-bedroom apartments. The Affordable Housing apartments would be apartments 2D and 2E with one being a studio apartment in the North West area and one being a 2-bedroom apartment in the south east corner. They would be accessible by elevator

Mr. Filletti said that there would be no changes to the exterior with the exception of adding windows to the apartments.

Mr. Bell said the floor plans were sent in with an error and the second page was redone to show that there are two Affordable Housing units and that apartment 2A was incorrect.

There was discussion about where the trash area would be actually located, and which area was shown on the Site Plan.

Mr. Hubschman, an engineer and planner with an office at 263 South Washington Avenue, Bergenfield, was sworn in. He had appeared before this Board many times before. Mr. Hubschman was presented as an expert engineer and planner and was accepted by the Board.

Mr. Hubschman described the subject property and the parking, which was described as available. He said there would be no architectural changes with the exception of spaces for air conditioning units. Mr. Hubschman said that in order to obtain approval, preliminary and regular Site Plan approvals were necessary. He went over information which included the overlay zone; the density in the 12 units with 12 units per acre; lot area, and RSIS rules as stated in Section 26 of the Code. Mr. Hubschman said that they only had 13 parking spaces on the side and there would be 2 spaces for the 2 bedroom apartments.

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

Mr. Hubschman stated that these apartments would create an urban environment for seniors and empty nesters. He said it would not burden the Municipality, and it would not be unlawful. Mr. Hubschman pointed out that this was a business zone and there were no lots except for Borough owned. He said that when it was rezoned, it was a usable area for affordable housing and the Borough has a large parking area. He then proceeded to go over the parking spaces again. Mr. Hubschman spoke about RSIS and said it was created by the State of New Jersey and it included parking demands. These apartments would require 15 parking spaces and there are 13. He said they need 2 more spaces; however, there was no room to add them.

Mr. Posen stated that the deviation was 20 spaces and not 13. He explained his calculations and said that 50 spaces were required for parking and the parking requirements would not be lessened.

Mr. Hubschman said that the residents' cars would probably be taken to work in the daytime and only need parking in the evening. Mr. Hubschman stated that it created positive criteria for the variance because it would be establishing housing and it met the criteria without detriments and upgrades and without impairing intents and purpose. Mr. Hubschman reiterated that it advances the Borough's needs for establishing housing.

Mr. Posen stated that some of the testimony was a little contradictory – for example, there is the notion that the residents would take their cars to work. He wanted to clarify that he was a believer in the apartments. Mr. Posen talked about his experience with parking spots and allowing neighbors to park where they did not belong from 6 p.m. until morning. He said he did not think a free-for-all was the solution. Mr. Posen said that every unit needs an assigned spot and the elderly should not have to park so far from the building. Mr. Posen pointed out that they were thinking they could take up spaces on Terrace Street, however, he had concerns. Mr. Posen then asked if a concrete dumpster pad would be used, and Mr. Hubschman responded that it was on Borough property.

Mr. Growney stated that the dumpster was on town property. He said that his dumpster was fenced in and it could not be altered. Mr. Growney stated that his dumpster was serviced by a commercial vendor.

Mr. Bell asked if they were aware of a licensing agreement. He asked Mr. Growney if it was his intent to move the dumpster. Mr. Bell said that they would accept that as a condition.

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on October
5, 2021, via Zoom.

Mr. Posen said that the units were appropriately sized for independent living, although they were quite small. He stated that parking would be an open question for the time being.

Mr. Posen then asked if there were any members of the public who wished to speak.

There was no one coming forward.

Councilman Rosenberg stated that parking was not permitted back there on Ivy Street and Haworth Avenue. Further, he said that the Traffic Ordinance was amended in 2019 and parking on Terrace Street is only allowed for 30 or 60 minutes. Councilman Rosenberg explained that the Borough Ordinance does not permit parking on any street in the Borough from November to April.

Mr. Ross asked about any restrictions to parking in the back of stores.

There was discussion about parking.

Mr. Bell said that he did not know if Mr. Growney would agree to assigning one space to each tenant.

Ms. Eby stated that she did not think this was going to work.

Mr. Ehrenberg said he felt that if the building was fully rented, their parking problems would be worse. He elaborated.

Mr. Bell said that if the Governing Body was going to provide and establish housing, they would not be able to provide all of the parking required. He elaborated. Mr. Bell said that the parking is what it is. Mr. Bell then said that he felt it would be best to address the parking situation.

Mr. Posen said he did not think he would worry because he did not think there would be more than 7 cars.

Mr. Ross said he was not looking at the denial of the application, but he wanted to know what they were looking at.

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

Mr. Bell explained that in 1917, the Borough changed the permit uses to mixed-use development as long as there was an Affordable Housing Permit. He said that conditional uses were different than permitted uses and it was now a permitted use.

Councilman Rosenberg explained that it was part of Fair Share Housing for residential district provisions. He stated that Mr. Growney's building was unique.

Mr. Ehrenberg said that if parking was banned, the building could still have reserved spots. He said it was not insurmountable and the owner might be able to lease land/spaces from the Borough.

There was discussion.

Mr. Hubschman stated that under 25 spaces, only 1 handicap space would be required and was a reasonable accommodation.

There was discussion about the number of handicap spaces to have.

Mr. Hubschman said that they were only required to have only 1 ADA spot and if they had to, the area could be restriped.

There were questions about having fire escapes giving the residents two means of egress, and also questions about limits on the number of people living in these apartments.

Mr. Filletti stated that there were no occupancy limits for residents - only egress requirements, and it did not have to be posted. He also said there were no enforceable regulations for how many people could be in a unit – it was regulated by the owner.

Mr. Hubschman pointed out that there was a DCA requirement.

Mr. Bell stated that Mr. Growney has no intention of having more than one family in a unit and he assumed that it would be the case here.

He said that there were no requirements on wall air conditioner units in the wall; the elevators already exist; and they would only be adding a couple of windows in the apartments.

Virtual Regular Meeting of the Haworth Zoning Board of Adjustment on October 5, 2021, via Zoom.

Mr. Ehrenberg said he assumed that Mr. Growney was successful to renting commercially.

Mr. Growney explained that the Multiple Listing Service was there quite a while then they purchased a building in Saddle Brook. He explained that he started listing the property back in January 2020 but with people working from home, he could not get tenants.

Mr. Bell said that he had nothing else to discuss.

Mr. Posen said that he was interested in the lease obligations and about parking. He said that he supports the application for planning housing downtown but they had to deal with the parking situation. Mr. Posen said he felt this was a project of significance for the town, which never existed before and they should take time to examine its details. He said that was his opinion and it should be taken as an encouragement and positive step.

Mr. Bell told Mr. Growney to look at the leases and report back at the next meeting. He said that they should also have an elevation prepared for the bark of the parking lot. He said he didn't know what the Board would like.

Ms. Eby said that she was also in favor of having apartments downtown.

Mr. Posen said that a decision would probably be made at the next meeting on November 2nd. He said that the applicant would not have to re-notice since the hearing would be a continuation.

COUNCIL REPORT

Councilman Rosenberg reported that the Planning Board was set to hear the subdivision on Massachusetts Avenue for the Fair Share Housing but there was still discussion on boundary lines.

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on October
5, 2021, via Zoom.

ADMINISTRATIVE

Mr. Posen stated that they did not have any new business to discuss.

Mr. Posen entertained a motion to adjourn,

So moved by Mr. Ehrenberg.

Seconded by Councilman Rosenberg and upon voice vote, was unanimously carried.

Respectfully submitted,


Dolores Fazio O'Dowd