

**BERGENFIELD ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
May 4, 2026**

Chairman Cabrera called the meeting to order at 8:00 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 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 himself 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, Jason Bergman, Benedict Cabrera, and Richard Morf

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

**Absent:** Yitz Novak

**INTRODUCTORY STATEMENT**

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 – April 13, 2026**

Motion By: Board member Smith

Second By: Board member Wenger

All present, voting in favor. None opposed.

**CORRESPONDENCE**

Board member Smith stated hopefully by the end of the week there will be proposals to give to the Planning Board and governing body regarding the location of generators and air conditioning units outside. He would like some input from the Board members. He handed out to the Board members some information to consider going forward.

**PUBLIC COMMENT**

Comments by members of audience on matters not on evening’s agenda

No one came forward.

**OLD BUSINESS**

1. Resolutions:

Lisa Bradley & Ryan Nelson, 9 S. Paula Drive, In-Ground Pool

Motion to Adopt Resolution  
Motion By: Board member Smith  
Second By: Board member Bergman  
All present, voting in favor. None opposed.

Jonathan Isser, 38 Frederick Place, Amended Site Plan

Motion to Adopt Resolution  
Motion By: Board member Bergman  
Second By: Board member Wenger  
All present, voting in favor. None opposed.

Tammy DeJesus, 25 Banta Place, Change of Use

Motion to Adopt Resolution  
Motion By: Board member Bergman  
Second By: Board member Wenger  
5 ayes. 1 nay.

2. Applications:           Damon Vespi, Esq.  
                                  21 W. Church Street  
                                  Reconsideration and Vote on Application for Extension  
                                  of Previously Granted Use Variance and Site Plan  
                                  Carried from April Meeting

Chairman Cabrera stated they are calling on the matter of Damon Vespi, 21W. Church Street, for reconsideration of a previously granted use variance and site plan approval. By the way of background, on April 13, 2026, the Board voted 3 to 2 in favor of granting the extension of previously granted use variance and site plan approval. At the time, the Board was advised that a super majority vote was required. The Board thereafter rescinded that vote.

He stated on April 13, 2026, two of the members also recused on the vote for the extension based on the conflict the members had with the previous applicant’s law firm who represented the original applicant. The property has been sold to the current applicant, Damon Vespi in June, 2024 and the previous law firm does not represent the current owner/applicant. Upon further review of the Municipal Land Use Law and applicable authorities, including Cox & Koenig, the Board has been advised that an application for an extension of a previously granted use and other variance-where no changes are proposed-requires only a simple majority of those members present and eligible to vote.

The Board has also been advised that disqualification based on conflict is situational, not permanent. If the reason for the original recusal no longer exists, the member is no longer barred from voting.

Tonight's proceeding is limited to reconsideration and a new vote applying the correct legal standard. No new testimony is required unless a Board member believes it is necessary. For the record, the Board's prior recission was based on the understanding that a five-vote supermajority was required under NJSA 40:55D-70(d). That requirement applies to the grant of a use variance.

However, where an applicant seeks only an extension of time to exercise an already granted use variance, and no substantive changes to the use or conditions are proposed, the request is ancillary to the original approval and requires only a simple majority vote of the members present and eligible to vote. Accordingly, the Board may properly reconsider the application and take a new vote under the correct standard.

Board attorney Oh stated one member is absent and unfortunately the Board does not have any alternate members today. There are 6 members voting on this extension. She stated Mr. Vespi has the option of coming back next month.

Board member Smith stated last month Mr. Vespi had said he had fired the contractor. He knows how he voted and what were the conditions with the original application. He inquired how do they know what was in the original memorialization back then will be abided by.

Chairman Cabrera stated they are still obligated by the original terms.

Mr. Vespi stated he has no intentions of doing anything other than what the plans were originally approved for.

Motion to Grant Extension for 6 Months

Motion By: Board member Wenger

Second By: Board member Morel

All present, voting in favor. None opposed.

10 N. Washington Avenue LLC/Adam Palance  
10 N. Washington Avenue  
Two Second Floor Apartments  
Carried from March Meeting

Mark Madaio, 29 Legion Drive, Bergenfield, attorney for applicant, stated they are proposing to put 2 two-bedroom apartments upstairs making the building a two-story building. The property currently has no parking. They will be able to put three parking spaces in the back for the two units, but are still one space shy. The retail area on the first floor will become smaller as there will be a staircase. Mr. Madaio stated the first floor has never had parking. The footprint of the building is unchanged. Any variance needed related to the bulk, yards and setbacks, is not a new variance, but is an expansion of a non-conforming structure. The runoff and the roof remain the same. There is a D variance, density variance needed. The total number of apartments per acre is 16 and are allowed to have 1.4 apartments.

Chairman Cabrera stated there are three non-conformances, the structure itself, access to the building, and the parking variance. He stated the rear access requirement was taken care of by providing the stairs.

Mr. Madaio stated no. The rear access is not a zoning requirement. He stated because of the grades, if you park in the back, the rear door would be about 10 ft. high. A tenant who parks in the back would have to walk around the building. There are plenty of apartments on the Avenue where you could park in the back and walk down an alley.

Board member Smith inquired how the footprint won't be changed if a staircase is being added. Parking spaces will still be needed for the retail on the first floor. He inquired why couldn't parking be provided for the retail store instead of the apartments.

Mr. Madaio stated the staircase is inside. The retail has never had parking in 50 years and nothing is being added to it. It's important to have parking for the apartments because they have cars. He will assign the parking spaces anyway the Board wants. Mr. Madaio stated if the Board would rather the tenants not have parking and leave their cars wherever they can, he will do that, and leave the parking for the retail. It makes sense if they are underpinning the building to make parking spaces that the parking spaces go to the apartments. Retail parking demand will go down slightly and residential parking demand will exist for the first time. The streetscape on Washington Avenue is a mix of retail downstairs, apartments upstairs and many of those apartments don't have parking.

Peter Pulice, 344 Broad Avenue, Leonia, NJ, project architect, stated the roof will be flat with a parapet. The elevation height is approximately 19 ft. 4 inches from grade. They will be using the existing, exterior bearing walls and building on top of them. Mr. Pulice stated they will not be exacerbating the building footprint and working on the existing building outline. The front façade will be reorganized to allow for a tenant entrance to the building, shift the main entrance to the retail on the first floor, and provide for some windows and some natural light for the second floor on both ends of the building. The roof will be flat with a nominal pitch. There is no height variance being sought. There will be a front door for the tenant space that is being constructed within the existing retail. There will be a new 250 sq. ft. staircase providing for stair and landing that will be deducted from the commercial space on the first floor. There is a natural grade to the rear of the building. Mr. Pulice stated the building has frontage on Washington Avenue that is short 35 ft. The property is 35 ft. wide and 100 ft. deep. On the first floor, there will be a new foyer with an in-swinging door and a new second floor access stair that will be used primarily for access and fire egress requirements. Mr. Pulice stated they meet all fire code requirements and in compliance. They are proposing 2 two-bedroom units on the second floor, one unit will be situated towards the front on Washington Avenue and one will be situated towards the rear, both will be accessed through the common staircase from Washington Avenue. Unit A towards Washington Avenue will be 1,000 sq. ft. and unit B will be 1,129 sq. ft. Unit A will have a 12x12 bedroom and a 12 ½ x 15 bedroom, a common living area, one bathroom, a small kitchen area, and natural light from the roof. Mr. Pulice stated the tenant will have to walk around the building from the parking area. It would be better to dedicate the parking spaces for residential use.

Board member Morel inquired about the requirement for a second means of egress.

Mr. Pulice stated its accessible windows. The firemen can come into the second floor with ladders or aerial truck. That meets the criteria for second means of egress. The windows have to be operational.

Board member Bergman inquired if the number for retail will be changed with the construction. There is no plan for a face lift for the first floor, except for the installation of the staircase.

Mr. Madaio stated it's one mish mosh down there and people might be moved out as a result of the construction. There will be an opportunity to put better retail.

Dr. Adam Palance, applicant/owner, stated the building was originally run by Dan Pak who made multiple kiosks. He left and his wife ran a speech pathology practice. She retired a year ago. They were holding the space for this time. The only remaining business is a small 200 sq. ft. kiosk, which is Johnny Cargo. Eventually, if the application is approved, they would like to beautify the store and make the Avenue look nicer. Dr. Palance stated they have changed the façade of the second floor. There are no plans to change the outside of the first floor.

Board member Bergman inquired if the one large retail space can be broken down to two comfortable retail spaces.

Dr. Palance's response was yes, absolutely.

Board member Smith inquired about the width of the alleyway.

Mr. Pulice stated it's about 2 ½ feet wide.

Chairman Cabrera stated there are a number of buildings on the Avenue that are physically not in good shape and need significant repair. He inquired what analysis has been done to ensure the building is structurally secure.

Mr. Pulice stated they have not performed any structural testing. They usually bring a structural engineer to evaluate low bearing walls. Sometimes, they come up with an independent frame within the building walls and bifurcate the existing structural capacities of the walls. It's an older building, but is built nicely and he did not see any exterior cracks or deflection. It will be evaluated once approved and has to meet all building codes.

Board engineer Panagopoulos stated the façade elevation joints do not line up with the windows. He inquired if the building is sprinklered and if it is a requirement. He inquired if there is fire separation between the two units.

Mr. Pulice stated it's under the 5,000 ft. criteria. Sometimes they put one head in the common area of the apartments. He would have to research it and will conform with the fire and safety code. Mr. Pulice's response was absolutely, horizontally and vertically.

Questions from Residents and Public:

No one came forward.

A five-minute recess was taken at 9:03 pm. The meeting resumed at 9:08 pm.

Mike Hubschman, licensed engineer, stated the lot size is 35 ft. frontage by 100 ft. deep, trapezoidal shape. The footprint will remain the same. The stairway is proposed on the north side of the building.

There is an existing right of way easement in the rear of the building they have a right to use. There is room in the back to be able to provide three 16 ft. x 9 ft. wide parking spaces. Mr. Hubschman explained the rear of the property is 3 ft. higher than the right of way and the right of way is used for three spots on the neighboring property to the north. They would do a similar design to the north, cut down, and remove fill two-three feet, where underpinning of the foundation is needed. Mr. Hubschman stated they didn't do any test pits yet. There is no basement and reason why the footing would be too high. There is no access from the alleyway. The façade is changing.

Board member Smith inquired what the length of the driveway, where the residents can park their cars, is. Firetrucks would have a problem getting to the rear of the building if there is a fire. The rear of the building has to be accessible and wouldn't be if cars are parked there.

Mr. Hubschman stated it's 16 ft. and the back is 21.2 ft.

Mr. Madaio stated they can stripe it so people don't park there. It's an enforcement issue. All buildings have fire lanes. He can guarantee no fire truck will pull up into the driveway. A fire truck will park on W. Main Street and the hoses will be dragged by the firefighters.

Board member Smith inquired where the garbage cans will be kept and if the residents will have to walk all around the building.

Mr. Hubschman stated there are shared refuse pails in the rear. Yes, they will have to walk around.

Board engineer Panagopoulos stated in his engineering review letter, there were some comments regarding the intent to meet the parking demands of the residential units and they are adding the three parking spaces. He inquired if there is a public parking area for the other remaining required parking for the site.

Mr. Madaio stated it's whatever is in the downtown district. There is a borough lot on Legion Drive and borough lot on the corner of Palisade Avenue and Legion Drive.

Chairman Cabrera stated parking overnight on the street is not allowed, but sees cars parked in the commercial district overnight.

Board member Smith stated they just have to go on their computer and request online to park their car on the street overnight. In other towns, people are only allowed to call a certain number of times.

Mr. Madaio stated they can put in the lease that there is parking for only one car or no cars and can be part of the resolution. The landlord can control that.

Board member Smith stated Ms. Oh should look into that.

Board member Wenger stated you can put whatever you want in the lease. The town might not want you to mandate that.

Mr. Panagopoulos stated ADA parking does not make sense for this site. He inquired what the 8 ft. right of way is and if it is a right of access or a right of way. He requested explanation for the roof leaders connection.

Mr. Hubschman stated it's right of access to the property. Everything drains toward the rear. It's going down the alley. They would pipe it with cultec chambers in the rear to mitigate it.

Mr. Panagopoulos stated the original plans show grass, but are now increasing the amount of coverage on the site, which is another change of variance that needs to be on the record. Mr. Panagopoulos inquired if there is enough width to have a real fire lane and a fire truck to be able to go in there. He inquired where the mechanical units will be located. They should be set back far enough or screened so its not visible from the street.

Mr. Madaio stated they need a variance for lot coverage. No fire vehicles will go down the alleyway.

Mr. Hubschman stated there's probably 10-12 ft. between the buildings. The mechanical units will be on the roof.

Questions from Residents/Public:

No one came forward.

David Spatz, planner from Community Housing & Planning Associates, Inc., 60 Friend Terrace, Harrington Park, NJ, stated Photo Exhibit A-3 shows four pictures, one is of the subject property and the other three properties that are adjacent and across from the subject property. The property is in the B-1

zone that permits residential units above retail. Mr. Spatz stated for general multi-family the units are 25.5 units per acre for density, where 5 is permitted, allowing 1.4 units, and they are proposing 2 units. The C variances are pre-existing conditions. The building does not meet the yard setbacks, the front rear or side. Mr. Spatz stated they are not making the situation any worse as they are going straight up. The building coverage is not changing, but there is impervious coverage as they are proposing to pave the rear portion to provide parking. They are able to provide three parking spaces, where 4 spaces are required for the apartments. Mr. Spatz stated this is an appropriate development. There are a number of other buildings on Washington Avenue that have second floors with apartments and a couple with apartments on the ground floor. It is reasonable within the business zone. Mr. Spatz stated they meet a number of the purposes in the Municipal Land Use Law, including purpose A and E. Mr. Spatz stated they are proposing three parking spaces, where no parking exists, even though the spaces are smaller than RSIS standards. The spaces will be dedicated to the residents and will know how to get in and out of the spaces in a safe manner. Mr. Spatz stated there isn't anything substantially negative. The state's SMART growth goals recommend commercial strip areas in business districts with apartments provided above them because it brings clientele, life and livelihood during the day and evening. The most recent reexamination report states one of its goals, specifically for the B-1 and B-2 zones, is providing residential units above retail uses particularly the northern commercial corridor can serve to strengthen the business district. He stated what is being proposed is on point with the master plan and reexamination report. The positive criteria outweigh anything that might be considered negative. It is appropriate to grant the variances.

Board member Bergman inquired if there are any county variances involved as it is a county road.

Mr. Madaio stated they would need approval for the site plan from the Bergen County Planning Board.

Chairman Cabrera inquired if there will be enough space for the cars to be able to get in and out.

Mr. Spatz stated the grading will allow for accessible spaces. They are not as deep as required, but there's enough space in the driveway. This has been commercial space with no parking for over 50 years. No parking for commercial use is typical. The small retail is getting smaller, so technically will required even less space for parking. It is a typical condition in Bergenfield and most other towns.

Questions from Residents/Public:

No one came forward.

Board engineer Panagopoulos inquired if the tree in the area will be removed and if they are aware the borough has a tree ordinance. The driveway is a little restrictive. He inquired if they looked at angling the spaces. He suggested putting the dumpsters where the proposed striping is and will have to make it more user friendly.

Board member Smith stated if a tree is removed, then the applicant will have to pay to have the tree replaced.

Mr. Hubschman stated the tree will be removed. They have 21 ft. to back out. They can make the spaces a little wider, instead of 9 ft., it can be 9 ½ ft. It's not much different than what's next door. They will have to stripe it properly.

Chairman Cabrera stated the variances being requested are: lot coverage is at 99% plus, density is approved 1.4 units and they are proposing 2 units, 4 parking spaces are required, three are proposed, 9x18 space required, 9x16 spaces proposed, and the expansion of nonconforming structure is being exacerbated. The tree being removed also needs to be replaced.

Board member Smith stated the parking spaces needed for the commercial use is not being taken into consideration.

Mr. Madaio stated if the commercial is counted, then they will be six more spaces short.

Chairman Cabrera stated he sees it as grandfathered. The no parking situation is consistent with the rest of the Avenue.

Board member Bergman asked Mr. Madaio if he would like to have the Board take a vote on the application today as 5 affirmative votes are required and there are 6 Board members present.

Mr. Madaio stated he is happy to come back. If the Board believes it is a matter that can be disposed of this evening, of course he would have it disposed of this evening. He doesn't know if the one other member is needed.

Board member Wenger stated there is no guarantee there will be seven members at next month's meeting.

Board attorney Oh stated there will be two alternate members appointed at the Mayor and Council meeting. There will be two alternate members at the June 1<sup>st</sup>, 2026 Zoning Board meeting.

A two-minute recess was taken at 10:00 pm. The meeting was resumed at 10:02 pm.

Board member Bergman stated the alternate members have to first be sworn-in at the June meeting prior to them listening to the recording and then be able to vote. It would have to be pushed to the July meeting.

Board attorney Oh stated even if the alternates are sworn-in at the next meeting, they would not have had a chance to listen to the recording.

Mr. Madaio stated he decided to have the vote carried to the June 1<sup>st</sup>, 2026 meeting and will extend the time needed for approval.

Miriam Yael Wielgus  
111 Greenbriar Street  
Amended Site Plan

Aryeh Wielgus, owner/applicant, stated he was before the Board a year ago for an addition. The Board granted the variances as there were existing nonconformities, small yard setback, and were over lot coverage. Their proposal plan actually reduced the lot coverage, which was done. They were just seeking to make the house usable for their growing family. Mr. Wielgus stated there were two mistakes made on their end when they finalized the construction. The first was there was a shed on the property since they had moved in, which was not included on the survey. The shed was included on the as-built survey, making the lot coverage over what was originally approved. The shed was always there and not installed as part of the construction. The cost of removing the shed was exorbitant because it was in concrete. The second mistake was that the contractor had suggested instead of installing pavers on the side, they use it as a patio in the rear, using the same square footage that was allotted. They assumed it would be fine as it was the same lot coverage. They are requesting both of these things be approved. It was at 45.74%, approved for 41.8%, and are at 43.9% now.

Chairman Cabrera stated the report shows 42.1%. It's a small, incremental increase of 0.3 on a lot that's already been reduced and that it was an honest mistake.

Questions from Residents/Public:  
No one came forward.

Board engineer Panagopoulos stated it's a technicality.

Motion to Approve Amended Site Plan  
Motion By: Board member Smith  
Second By: Board member Bergman  
All present, voting in favor. None opposed.

**NEW BUSINESS**

Applications:                 Grady Bayersdorfer  
                                      143 Elder Avenue  
                                      In-Ground Pool

Board member Bergman recused himself.

Chairman Cabrera stated he has two concerns. The first concern is there are only five Board members who will be voting on the application, one member recused himself, and there is a Board member absent. It's not normal and is better to have all seven Board members. Secondly, the request being made is significant. Chairman Cabrera stated he doesn't personally see the application being approved as they are asking for over 71% lot coverage. He stated if the applicant would like to sit and have a conversation with the Board, then can wait until the end. The job of the Board is to observe the ordinances, ensure they are enforced, and within reason be practical and work with the residents. The Board members are all residents of Bergenfield. They can defer to next month.

The applicant stated they will make some changes to the lot coverage and propose it for the next meeting in June.

Chairman Cabrera stated the reduction will have to be over 20% and will have to get the number to be in the mid 40's. The issue is that the lot is 50x100 and there are significant flooding problems in town that are getting worse. Chairman Cabrera stated there also have been some legal actions taken in the past that requires the Board to be fastidious and focused on the ordinances as much as possible. There is no need to publish in the newspaper and send certified letters to residents within 200 feet.

Damon Vespi, Esq., 21 W. Church Street, Request for 6 Month Extension for Preliminary & Final Site Plan Application

Motion to Adopt Resolution  
Motion By: Board member Smith  
Second By: Board member Bergman  
All present, voting in favor. None opposed.

**MOTION TO ADJOURN MEETING**

Motion By: Board member Smith  
Second By: Board member Bergman  
All members present, voting in favor. None opposed.

Meeting was adjourned at 10:14 pm.

Respectfully Submitted,

A handwritten signature in black ink that reads "Hilda Tavitian". The signature is written in a cursive, flowing style.

Hilda Tavitian, Clerk  
Zoning Board of Adjustment