

**ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING  
MINUTES  
July 18, 2022**

**CALL TO  
ORDER**

The Regular meeting shall be called to order at 7:00 p.m.  
1 City Hall Plaza  
Rahway, NJ 07065

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**FLAG SALUTE**

The Board will then salute the flag.

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**ROLL CALL**

On a call of the roll, the following Board Members and Officials should be present:

**BOARD**

Ms. Joann Gemenden, Commissioner  
Mr. Brandon Givens, Commissioner  
Ms. Jelsie Basso, Commissioner  
Mr. Adrian Zapotocky, Commissioner  
Mr. James Heim, Commissioner  
Ms. Robert Parson, 1<sup>st</sup> Alternate Commissioner  
Mr. Richard Zdan, 2<sup>nd</sup> Alternate Commissioner  
Mr. William Tomkiewicz, 3<sup>rd</sup> Alternate Commissioner  
Mr. Roy, L. Smith, 4th Alternate Commissioner  
Mr. James E. Pellettiere, Commissioner Vice Chairman  
Mr. William Hering, Commissioner Chairman  
Mr. Malcolm Thorpe, Esq, Board Attorney  
Ms. Jacqueline Dirmann, Board Engineer  
Mr. Kevin O'Brien, Board Planner  
Mr. Steven Decker, Acting Board Secretary

Absent from this meeting were Commissioners Givens, Basso, Parson which were excused absences.

\*Board Secretary Steven Decker was absent from the meeting

**REGULAR MEETING:**

The meeting was called to order 7:02pm.

Chairman Hering opened the meeting with the salute to the flag, placing the Open Public Meeting Act notice and reading of the agenda into the record.

The following action took place.

The board professionals, Planner Kevin O'Brien and Engineer Jacqueline Dirmann was sworn in.

There were two application on the agenda to be heard.

MSM Investment Properties, LLC.  
Witherspoon Street (Vacant Lot)  
Application #5/21  
Block 349 Lot 35  
Applicant is requesting a Use “D” Variance

259 Elm Ave. LLC  
259 Elm Ave.  
Application #15/21  
Block 151 Lot 4  
Applicant is requesting Preliminary and Final Major Site Plan and Bulk “C” Variance and Use “D” Variance

Applicant has asked to have the application carried to a future meeting. 259 Elm Avenue will be carried to the next meeting without further notice.

Board Planner Kevin O’Brien asked what the options are in September for the applicant.

Attorney Thorpe said the applicant has to be heard in September and if not the applicant will have to re-notice.

### **Hearings**

MSM Investment Properties, LLC.  
Witherspoon Street (Vacant Lot)  
Application #5/21  
Block 349 Lot 35  
Applicant is requesting a Use “D” Variance

Attorney Thorpe confirmed the application was properly noticed and ready to be heard.

Rosemary Stone-Dougherty the attorney for the applicant introduced the application. This application is for a “D1” Use variance to add a two family house in a single family zone. The applicant agrees to comply with all Engineering comments from the review letter.

The applicant’s Architect, Mr. David Andriola of 713 Kearny Ave, Kearny, NJ was sworn in. All his certifications are current. Mr. Andriola was accepted as an expert. This is currently a vacant lot, and Mr. Andriola showed the proposed two family home. The applicant wanted to design the house to look like a one family house. There will be one entrance and a two car garage. He believes the house will fit well in the neighborhood. The house will be three floors. Unit one will take up the basement and 1<sup>st</sup> floor and unit 2 will be on the 2<sup>nd</sup> floor. The homeowners will be able to enter the units through the garage or the front door. The first unit will be 3-4 bedrooms and 3 bathrooms. The 2<sup>nd</sup> unit will be 3 bedrooms with 2 bathrooms. The intention is that the tenant of the 1<sup>st</sup> unit will own the entire house and will have access to the mechanicals. The lot is under on impervious coverage so a patio could be added to the back yard if the applicant wants. The 1<sup>st</sup> unit will have 2800 sq ft, The 2<sup>nd</sup> floor will be 2100 square feet. This does not include the garage.

Board Engineer Jacqueline Dirmann noted that the application only provides for three parking spaces, and the RSIS requires four spaces.

Board Planner Kevin O’Brien asked about the total size of the home which would be 5688 sq ft. He believes this is a very large home for the area. He would like to know if there are unique circumstances to the size of the house.

Mr. Andriola stated that they are not using all of the 35% building coverage allotted by zoning. They are trying to maximize the most space they can. The spacious garage, kitchen and living area on the first floor created the building footprint.

Mr. O'Brien asked if the bottom floor has the potential to be an independent unit.

Mr. Andriola answered that size wise it could be done, but this is not what they are proposing.

Mr. O'Brien asked if it is typical to have mechanicals for the 2<sup>nd</sup> unit inside the 1<sup>st</sup> unit, with only access from the owner of the 1<sup>st</sup> unit. Mr. Andriola said this is done sometimes. He said it could be moved to the 2<sup>nd</sup> unit if needed.

Mr. O'Brien then asked what egress from the basement are there besides the stairs. Mr. Andriola stated that the 2 backroom windows will be egress windows.

Commissioner Heim asked if there are other 2 family houses on the street? Ms. Stone-Dougherty said the planner will testify to this.

Commissioner Gemenden asked how the owner of Unit 1 will access the back yard. It was answered that the right side of the house will have a walkway to access the back.

Commissioner Zapotocky stated he likes the design of the exterior of the building. He questioned about the basement and grading of the floor of the garage. Mr. Andriola stated the floor of the garage will be on grade level to drive into. Commissioner Zapotocky would also need to know how high off the floor the windows in the basement would be. They will be no higher than 44inches.

Mr. James Watson of EKA Associates 328 Park Ave., Scotch Plains was sworn in as a planner. He has been accepted as an expert.

Mr. Watson explained the grading plan and storm water management for the property. There are drywells underneath the driveway. He explained that there are Industrial Light zone across the street and an R-3 zone not far away in the neighborhood.

The meeting was opened to commissioners.

Commissioner Pellettiere asked if the intention is to use the four parking spots in driveway and garage as the four required. He noted that the four bedroom and three bedroom, are large units so there may be a need more parking spots. He believes this house is going to need to utilize on street parking.

Board Engineer Dirmann noted the Planning Board had approved a house of worship down the street, and parking was discussed with that application. There is no space to park in front of the house at this property, so any on street parking would be in front of other houses on the block. Mr. Watson said when he has been at the property there has been plenty of on street parking and that with the industrial zone across the street, in the evenings there is more parking available.

Mr. Watson stated that the application is looking for a D1 Variance because it is a two family house in a one family zone. Mr. Watson referred to the criteria met for the D1 variance. Section A- This is development of a vacant lot which is good for the general welfare, and increases tax revenue for the City. Two family houses will help with the housing market. Section C- this house complies with all setbacks and conforms to zoning regulations. It could be built as a one family without going to the board. It also meets the density requirements, it will be two families in a 10,000 sq ft lot, adhering to the density regulation of 1 family per 5,000 sq ft. Section E- 30% of the area has 2 family houses, there are also three family homes, and the design fits into the neighborhood which is mostly a mix of size, shape and architecture. He believes any negative attributes are the same as if it was a single

family.

Commissioner Pelletiere asked if the applicant would be willing to move the full bathroom out of the basement area in order to prevent the house from becoming a three family house.

The applicant agreed to change the basement bathroom to a half bathroom.

Commissioner Zdan asked if a 7 bedroom single family home would be in character with the neighborhood. Mr. Watson believes it would be because it appears to be a single family house and you don't see the depth of the house. Commissioner Zdan believes the house is very large and stands out in the neighborhood.

Commissioner Tomkiewicz asked about the house on the right side and where that driveway is located. The driveway of the neighbor is on the opposite side than the proposed lot.

Engineer Dirmann would like to make sure cars are parked in the garage and not in the street.

Planner O'Brien would like to know if there is a need for the seven bedrooms, and the specific reason for it. Mr. Watson said this amount of bedrooms makes it more accessible and rentable.

The meeting was opened up to the public.

The public portion of the meeting was closed.

The applicant's attorney Rosemary Stone-Dougherty asked if the board had any discussion before the application was summed up.

Chairman Hering asked the boards opinion. He stated he would like to see less bedrooms in the house. Commissioner Zapotocky asked for an installation of a rear door on the house.

Mr. Watson and the architect agreed that the shower in the basement would be removed, a separate mechanical room can be added for the second floor so the tenant will have access, and a door can be added to the basement floor, or a side door can be added.

Ms. Rosemary Stone-Dougherty stated the applicant would reduce the amount of bedrooms on the first unit to 3 with the addition of a hallway for a door to the rear area.

Mr. O'Brien recommended allowing the full bathroom in the basement so there is more shower access, but placing a deed restriction to limit the use to 2 families.

Ms. Rosemary Stone-Dougherty summed up the application and believes with the changes agreed to, and the design to make the house appear as a single family dwelling and the area it is in that the application can be approved.

Commissioner Pelletiere motioned to approve the application for MSM Investment Properties with a deed restriction maintaining the property as a 2 family house, the parking garage to be used as a garage and not storage, the basement bathroom to be changed to a half bath, and allowing a change for independent utilities on the 2<sup>nd</sup> floor, and a hallway and rear entrance door be added to the basement level and one room eliminated.

**Motion: Commissioner Pellettiere                      Second: Commissioner Gemenden**  
**Yes: Commissioners Gemenden, Zapotocky, Heim, Zdan, Tomkiewicz, Smith, Pellettiere and**  
**Chairman Hering**  
**No: none**  
**Abstain: none**  
**Absent: Commissioners Basso, Givens and Parson**

**The motion has been approved**

Board Attorney Malcolm Thorpe made an announcement regarding 259 Elm Ave., and that it will be heard September 19th. Any hearing after September 19<sup>th</sup> will have to be noticed.

### **Memorialization of Resolutions**

1204 New Brunswick Trust  
1204 New Brunswick Ave.  
Application #6/22  
Block 309 Lot 21  
Applicant is requesting a Minor Subdivision with Use “D” Variance and Bulk “C” Variance

Commissioner Gemenden motioned to memorialize the resolution for 1204 New Brunswick Trust.

**Motion: Commissioner Gemenden                      Second: Commissioner Zapotocky**  
**Yes: Commissioners Gemenden, Zapotocky, Heim, Zdan, Smith, Pellettiere and Chairman**  
**Hering**  
**No: none**  
**Abstain: Commissioner Tomkiewicz**  
**Absent: Commissioners Basso, Givens and Parson**

### **Resolution Memorialized**

**MINUTES:** Any necessary changes to the Zoning Board of Adjustment meeting minutes of June 20, 2022 shall be made and approved by action of the Commissioners

**Motion: Commissioner Zdan                      Second: Commissioner Gemenden**  
**Yes: Commissioners Gemenden, Zapotocky, Heim, Zdan, Smith, Pellettiere and Chairman**  
**Hering**  
**No: none**  
**Abstain: Commissioner Tomkiewicz**  
**Absent: Commissioners Basso, Givens, Parson**

### **Minutes were approved**

Chairman Hering gave an update on the Planning Board. A minor subdivision at 726 Stone Street was approved. Also discussed the new temporary parking lot at Meridia Brownstones that was approved.

A motion was made to adjourn the meeting.

**Motion: Commissioner Zdan                      Second: Commissioner Zapotocky**  
**Yes: Commissioners Gemenden, Zapotocky, Heim, Zdan, Tomkiewicz, Smith, Pellettiere and**  
**Chairman Hering**

**No: none**

**Abstain: none**

**Absent: Commissioners Basso, Givens and Parson**

**The motion has been approved**

**ADJOURN:** There being no further business; the meeting was adjourned at 9:08 pm.