

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Of March 19, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on March 19, 2012

Chairman Todd Newman called the regular meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Blecher, Mr. Sacchinelli, Mr. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Dunay, Mr. Sina, Mr. Lancaster, Mr. Meer & Mr. Newman

Absent: Mr. Puzio

Also in attendance were Bruce Rosenberg, Board Attorney; Candice Galaraza, Court Reporter, Ann Peck, Assistant Zoning Officer, Cathy Bozza, Zoning Board Secretary.

No Board Professional's in Attendance.

Mr. Newman notes Order of Agenda. Resolutions to be memorialized first, asks for a motion on the following Resolutions:

Memorialized Resolutions:

1. Application#12-004, Joel Berlin,
2. Application#12-005, Michael & Michele Rosenblum
3. Application#12-007, Gurpal Singh Farmah
4. Application#12-008, Robert Kessler

Before moving forward, Mr. Karas (Board Member) questions Council on the "New Application" of Michael & Michele Rosenblum this month & notes there was a determination made prior... but before the resolution is adopted by the Board, asks; " If no Resolution is adopted by the Board, what happens to the previous denial before acclamation?"

Mr. Rosenberg (Board Attorney) explains; if the Resolution is not acted upon, one of the criteria for Res Judicata cannot be met.... There needs to be the adoption of the Resolution first...

Discussion continues regarding the application of the Rosenblums, Mr. Rosenberg explains; until the adoption of the Resolution, the application for the “New Application” cannot proceed on Res Judicata...there needs to be a determination on the new application as to whether it is Res Judicata and this is the reason why the Resolution needs to be adopted, one way or the other....

Question: if it is adopted, then a decision is made, Res Judicata or not?

Mr. Rosenberg states no. If the Resolution is adopted, the matter stands on its own...explains...the applicant has a right to appeal the decision. It stands on its own merit.

Mr. Lowenstein (Board Member) states for the record, he was in attendance at the last meeting but had to recuse his self on at least one of the applications, so he suggests each Resolution be voted on individually for a motion.

Mr. Newman so notes.

Discussion on holding the Rosenberg application on abeyance...

Mr. Rosenberg explains if the Board wishes to hold the application in abeyance, pending the new application, you will still have the Res Judicata hearing...which has to occur this evening.

It is decided to vote on the Resolutions.

Mr. Newman proceeds...

1. Application #12-004, Joel Berlin-

Mr. Lowenstein makes 1st. motion to memorialize Resolution.

Mr. Karas seconds the motion.

VOTE: All Present- AYE

2. Application#12-005, Michael & Michele Rosenblum,

Mr. Lowenstein makes 1st. motion to memorialize Resolution.

Mr. Karas seconds the motion.

VOTE: All Present- AYE

3. Application#12-007, Gurpal Singh Farmah,

Mr. Karas makes 1st motion to memorialize Resolution.

Mr. Sacchinelli 2nds the motion

VOTE: All Present- AYE (Mr. Lowenstein did not vote, recused himself from application)

4. Application#12-008, Robert Kessler,

Mr. Lowenstein makes 1st. motion to memorialize Resolution.

Mr. Meer seconds the motion.

VOTE: All Present- AYE (Mr. Karas did not vote, recused from application)

Residential Carried:

1. Application#11-040, Iris & Eduardo Galan,
39 Garwood Road, Block 2811, Lot 2, Zone R-1-2
Board must make a determination as to Res Judicata. Proposed driveway expansion and walkways would increase the impervious coverage from 35.5% to 39.95% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Josh Levine, (Attorney) steps forward on behalf of his applicant, Iris Galan.

Mr. Newman swears in: Iris Galan, (Applicant)
39 Garwood Road
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Levine begins his testimony..... This is a renewal application of a similar application that was denied last year. Explains....

This application is asking for an increase over the allowable requirement.

Mr. Rosenberg (Board Attorney) interjects the testimony to explain on the issue of Res Judicata, the Board is going to hear the new application& first requires the propers & consideration & a vote by the Board as to whether or not the matter can proceed.

Mr. Rosenberg asks Mr. Levine, for the record, to refer to previous Resolution, #11-021 and states; “The matter needs to be voted as to whether or not the matter is Res Judicata to proceed. The Board will take a vote.....

Discussion.....

Mr. Karas (Board Member) asks Mr. Levine to please indicate in what way this application differs from the previous...

Mr. Levine continues....In application #11-021; he refers to the first page of the Resolution...

**Application #11-021, Marked into Exhibit as A-1

Mr. Levine notes, the application at that time was for an increase of the impervious coverage to 43.28% where 35.5% is required. He explains he was not party to the application at the time, however, as you may recall and you will hear testimony this evening, Ms. Galen had installed a walkway around the front and side of the house towards the back which was done without obtaining Board approval....

They learned it was not allowed and applied for the variance. At the time of the first hearing, they had the Architect appear before the Board and made an additional request for an extension of their driveway along with the existing walkways...

Mr. Levine notes the new application seeks an allowance of 39.9% as compared to the 43.28%

Testimony continues....

Mr. Levine after full testimony, states he proposes this is a new application..

Mr. Lowenstein (Board Member) asks Mr. Levine the only difference in the new proposal is a reduction of the proposed driveway? No changes to the walkways?

Mr. Levine confirms this is true. The walkway was already installed...we are not asking for a change in that.

Mr. Karas (Board Member) notes the original application differs and why that is; the original driveway was for an expansion...the current application reduces the driveway and also consists of pavers...

Discussion....

Mr. Lowenstein questions a document (attached to the Original Denial) He is not quite sure if this is being presented as modified or is it an example of the original application?

Ms. Peck (Assistant Zoning Officer) explains; It is part of the original application our office provided to the Board for review....

Mr. Lowenstein notes, Mr. Levine did not represent the applicant on the original application, but questions him on some of the notations made regarding the original application.... Specifically the driveway....explains...reduction of a figure that was 43.28% impervious to 39.26% which is close to what is on the agenda this evening...also a notation to the left which states a reduction of the walkway from 2'11" to 2'6".

Mr. Lowenstein states he is particularly focused on the last point & is asking Mr. Levine again, if there is any proposed change with the walkway?

Mr. Levine apologizes but does not have a copy of the prior denial for the original application...

Ms. Peck states what Mr. Lowenstein is referring to are the notes Mr. Meer makes on the application during the process of the hearing...

Mr. Levine states; his understanding was, the original application was for the 43.28% but at the time the application was presented originally before the Board, there were discussions held with respect for the applicant to compromise for something other than what they were looking for. This compromise was never reached.

Mr. Lowenstein is adamant regarding the walkways and states he would still like to know if there is a proposal in the current application to reduce the walkways from the existing 2'11" to 2'6"...he knows he is being redundant, but he feels there is conflicting information and he wants to be sure what the Board is contemplating this evening.

Mr. Levine confirms, the application as proposed does seek the 2'11" regarding the walkways. No change.

Discussion continues.....

Mr. Blecher questions the current driveway and notes it shows two cars parked side by side and asks the applicant if she is looking for a driveway expansion that will allow 3 cars parked side by side...

Ms. Galen states; if that is possible.

Mr. Levine interjects to answer this question. He notes the prior application was for 3cars side by side and would have allowed for 6car parking, this present application does not seek anything close to resembling that. It is a small expansion to the right side of the driveway, which by no means would allow three (3) cars side by side...

Mr. Rosenberg (Board Attorney) feels it would be helpful to have the Assistant Zoning Officer also, to testify with respect to the differences in the plan....

Mr. Karas interjects noting the two plans before him. Refers to the original plan marked-A-001-dated April 25th, 2011—noting the driveway expansion...refers to the proposed...questions the expansion size for confirmation..

Mr. Newman swears in Ms. Peck.

Ms. Peck (Assistant Zoning Officer) clarifies for the Board, reiterates; the existing asphalt driveway 19.'1 1/4" is being converted to pavers and the width will be increased by 2'6" for a total of 21.'7¼".....by doing so, there is a reduction of the Impervious Coverage originally requested from 43.28% to 39.95% and eliminating the width of the driveway variance...

Mr. Newman asks the Board if there are any other questions for the Zoning Officer or Mr. Levine regarding Res Judicata.

Discussion before vote....

Mr. Newman asks for a motion as to whether it is or is not Res Judicata.

Mr. Rosenberg explains to the Applicant; if the Board finds that it is Res Judicata, the application cannot proceed, because the Board has found the application is not substantially different from the one that was denied in Application 11-021.

Discussion...

Mr. Karas makes a motion the present application is not barred by Res Judicata. Explains his research on Cox...explains....

Mr. Meer seconds the motion.

Mr. Newman reiterates for the record: A **“Yes” vote allows the applicant to proceed.**
A **“No” vote, the applicant cannot proceed.**

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr.Karas, Mr. Seibel,
Mr. Meer & Mr. Newman, **YES.**

Mr. Lowenstein: **No**

6 Yes to proceed- **1 No**- Motion is to proceed.

Mr. Levine notes; Survey is marked into Exhibit as A-2

Mr. Levine begins his questioning of his client. Ms. Galen.

Mr. Levine asks Ms. Galen if she is familiar with the application and have reviewed the plans and drawings drafted by the Architect that have been submitted to the Board.

Ms. Galen states yes.

Mr. Levine reviews with Ms. Galen the variance on which she is seeking, the Impervious coverage....

Reviews the survey of the property and asks Ms. Galen to tell the members of the Board when the work was done.

Ms. Galen states in 2006, she purchased the house from the builder...this was the survey given to her.

Testimony continues...

No Exterior changes to the home after purchasing it...until recently..

Ms. Galen explains the reasoning behind her putting walkways in. It has always been dangerous to walk from the front of the house to the back of the house with the grass. It was slippery....

Mr. Levine continues his questioning....asking to describe the neighborhood.

Pictures submitted are reviewed...

Mr. Levine makes note; Driveway as requested would not deviate from other driveways in the neighborhood in respect to size...all of the homes have the same size driveway..

Walkways are discussed. Question is asked if most of the homes in the surrounding area have walkways from the front of the home to the back.

Ms. Galen testifies probably more or so around 90-95% of the neighbors have sidewalks.

Testimony continues....

Mr. Levine asks Ms. Galen to please elaborate why she would suffer a hardship with regards to a denial of the application.

Ms. Galen states when she did her pathway, she had no idea it was not legal. She feels what she did was for the benefit of the neighborhood and her home.

Mr. Newman questions Mr. Levine on the word “Hardship” used...”is it his argument that the hardship described by the Applicant represents a “Hardship” in terms of Land Use “, because he has not seen this as of yet..

Mr. Levine explains yes he is trying to draw this point out...

Mr. Levine continues to question Ms. Galen...asking her when she purchased the home, it did not have a walkway...would it be your testimony, at the time the building was constructed, the builder should have made an application for a walkway at the time...

Ms. Galen feels very strongly the builder should have.

Mr. Levine points out as a result of the failure to build the walkway she suffered a “hardship” by not having a walkway or a driveway expansion.

Testimony continues....

Calculations are noted with Impervious Coverage coverage...

Mr. Levine again points out, had the property been a little wider and longer, his client would have been able to construct the walkway & extend her driveway without having to appear before the Board.

Discussion on current Lot size...

Mr. Newman notes the property is not under the 7500ft. requirement.

Mr. Levine notes the property which was built, was not built by his applicant and also at a time he believes preexisted the current impervious coverage requirement.

Discussion...

Mr. Levine continues his questioning of Ms. Galen, asking if she feels the proposal would have any detriment to the surrounding neighbors to which she replies no.

Mr. Levine has no further questions.

Mr. Sacchinelli reiterates with the Applicant that at the time the home was purchased, there was no walkway and the driveway is the same size it has always been?

Ms. Galen replies yes.

Mr. Newman questions one of the photographs. The photo depicts two vehicles stacked in front of one garage door...and what appears to be more than enough room for another

two vehicles stacked in front of the open garage door.....testimony is there is not enough room to park 4 cars...can you explain this?

Ms. Galen testifies when you park the cars like the picture depicts, you cannot hardly open the doors because there is not enough of room...explains in details.

Discussion continues...

Mr. Newman notes there is a two car garage and there is parking for two cars in the garage...

Questioning continues....

Mr. Rosenberg (Board Attorney) wants Mr. Levine to mark into evidence the revised site plan..

Mr. Levine enters the newly revised Site plan into evidence along with the photographs..

Marked as A3-Drawings by Lawrance Guthartz, dated 4/25/11, revised 6/23/11
A4- Photographs- 6 sheets/4 photos on each page.

Discussion & questioning continues on the reason for the extension of driveway...

Ms. Galen states the photos do not depict the cars on the edge of the grass...very close.

Mr. Karas asks how many cars the applicant has, to which Ms. Galen replies; 6 cars.

Mr. Newman asks even with the expansion, unless you are using the garage, where do you park the six cars overnight?

Ms. Galen testifies to 2 are in the garage and four cars on the outside of the garage.

Mr. Lowenstein questions a slope to the left of the house....on a hill sort of?

Mr. Newman opens the applicant to questions or comments from residents living within 200ft. of the resident. Seeing none,

Mr. Newman opens the applicant to questions or comments from the General Public, seeing none,

Mr. Newman closes this portion & asks for a motion.

Mr. Newman apologizes to Mr. Levine and asks if he has closing words before the motion.

Mr. Levine (Applicant's Attorney) thanks Mr. Newman for the opportunity and begins his closing statements...discussing pervious, impervious coverage and pavers...

Discussion amongst the Board before the motion is called.

Mr. Levine interjects before motion is made and states he has conferred with his applicant and Ms. Galen would be willing to withdraw the portion of the application regarding the extension of the driveway, seeking merely the approval on the walkway to the side and into the rear of the property...

Mr. Newman speaks to the General Public and explains the applicant is willing to amend their application asking only for the addition of the walkways...

Calculations are redone. It is determined the corrected impervious coverage the applicant is seeking would be 38.97%.

Mr. Levine amends the application and notes for the record, the applicant is withdrawing her request for the extension of the driveway...

Mr. Newman asks for a motion.

Mr. Lowenstein makes a motion to deny the application. Explains...concerns regarding water retention, etc..

Mr. Newman asks if there is a second motion to deny. Seeing none,

Mr. Sacchinelli seconds the motion.

(A NO VOTE is NOT TO DENY)

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Karas, Mr. Seibel,
Mr. Meer & Mr. Newman. **NO**

Mr. Lowenstein, **YES** for denial

Motion does not carry.

Mr. Newman asks for another motion.

Mr. Meer makes a motion to approve the application with amendment.
Mr. Blecher seconds the motion.

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Karas, Mr. Seibel,
Mr. Meer & Mr. Newman, **YES.**

Mr. Lowenstein, **NO**

**Motion carries,
APPLICATION APPROVED.**

Mr. Newman calls for Recess:

Mr. Newman calls meeting back to Order:

ROLL CALL: Mr. Blecher, Mr. Sacchinelli, Mr. Lowenstein, Mr. Karas,
Mr. Seibel, Mr. Dunay, Mr. Sina, Mr. Lancaster,
Mr. Meer & Mr. Newman, PRESENT

2. Application#12-006, Simran Sethi,
5-22 Elizabeth Street. Block 1406, lot 8, Zone R-1-2
Proposed addition would increase the building coverage from 20.53%
to 25.44% where 25% is permitted. Would increase the impervious coverage
from 34.53% to 38.83% where 35% is permitted. Would reduce the rear yard
setback from 27.40% to 13.06% where 20' is required as per Section 125-12
Schedule of area yard & building requirements. Would increase the FAR from
26.32% to 40.63% where 37% is permitted. Requires a D-4 variance as per
Section 125-57D.(d){1}

Mr. Lowenstein has recused himself from this application.

Mr. Newman swears in: Simran Sethi (Applicant)
5-22 Elizabeth Street
Fair Lawn, N.J.

Chris Blake (Architect)
155 N. Washington Ave,
Bergenfield, N.J. 07621

Mr. Rosenberg (Board Attorney) mentions to the Chairman, as a reminder, there were members of the Board who were not at last month's meeting when testimony was taken on the application. This is a continuance, so unless Mr. Blecher can certify that he has listen to the tape with the proceedings, he would not be qualified to vote on this application.

Mr. Blecher will only participate but will not vote.

Mr. Newman speaks to Mr. Blake (Architect) and notes he has been certified as an Expert Witness in the field of Architecture at the last meeting, so if he could please summarize where they were last time and what was presented....

Mr. Blake begins explaining the reasons why they were here. A variance for a renovation, addition to the house....

Last month when they were here to present their case, Mr. Blake stated there was a question regarding clarification on the FAR... he had calculated the FAR incorrectly and has since updated the FAR. This was the only issue in question....

Mr. Blake continues explaining where the error lied. It was to his understanding, a Garage less than 400sf **does not** count as FAR, anything more than 400sf **does count** as FAR....the end result with the new calculations is; we have 3 more square feet in the FAR than we had.

Mr. Blake specifies to be clear....it will now be a FAR of 40.63% where 37% is permitted where it was 40.60%...

Discussion.....

Mr. Blake reviews the plans with the Board.....

Mr. Rosenberg (Board Attorney) notes for the Record, we had ended with Exhibit A-2 (Aerial Photograph) & the revised plan is entered as:

Exhibit A-3- Revised Site Plan, dated 3/2/12.

Mr. Blake begins his testimony explaining the project is a proposed rear yard addition to a single family house. It is a 7500sf property.....Proposal is to add a kitchen addition to the rear of the existing house as well as a Master Bedroom addition above it....

Speaks to the impervious coverage increase...etc...

Mr. Blake continues with his testimony....reviews surroundings areas with the Board....does not believe this addition would affect open air, light or anything in this nature...neighbors are parking lots...

Mr. Blake believes his client is asking for the deminimis in coverage...reviews...

Mr. Blake also states his client will completely comply with not only the Zoning Ordinance but the building code

Mr. Meer (Board Member) states he is familiar with this property and collaborates what Mr. Blake has testified to regarding neighboring lots.

No further questions or comments from the Board.

Mr. Newman opens the application to residents within 200ft. for questions or comments. seeing none,

Mr. Newman closes this portion.

Mr. Newman opens the application to the General Public for questions or comments Seeing none,

Mr. Newman closes this portion & asks for a motion.

Mr. Meer makes a motion to approve the application.
Mr. Sina seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Karas, Mr. Sibel, Mr. Sina,
Mr. Meer & Mr. Newman, **YES.**

Mr. Dunay, **NO**

Motion Carries.

Application Approved.

Residential New Business:

1. Application #12-009-Nathan Glessner,
22-01 Myrtle Ave, Block 5814, Lot 11, Zone R-1-3
Proposed 6ft. fence in the front yard setback where 3' is permitted as per
Section 125-38. A. Fences & walls.

Mr. Newman recuses himself from the application.

Mr. Rosenberg swears in: Mr. Nathan Glessner (Applicant)
22-01 Myrtle Ave
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Glessner begins his testimony explaining to the Board he is looking to add a 6ft. fence on the Southside of the house....as well as the Westside of the house stating the front yard setback is 25ft...and it would encroach on this setback. He would like to create a private back yard.

Mr. Meer questions Mr. Glessner on surroundings areas and other properties that have similar fences.

Pictures are reviewed....

Mr. Sacchinelli questions the type of fence he is looking to install.

Mr. Glessner explains it would be 6ft. in height, Lattice Top privacy fence, Cedar Wood.

Mr. Glessner clarifies; it would be 5ft. in length, 1 ft. lattice, totaling 6ft.

Discussion...

Mr. Glessner explains why he wants the fence at the location he is proposing ...he would like to maximize as much as the backyard area as possible. It is a relatively small space with the Garage behind it and the idea was to make as much area there as possible.

Discussion on reducing the height to 4-5ft...

Mr. Glessner agrees to consider 5ft. because he also has two dogs which he would like to contain.

Discussion on location....

Mr. Glessner is willing to consider options.

No more questions or comments from the Board.

Mr. Meer opens the application to residents living within 200ft. of the applicant.
Seeing none,

Mr. Meer closes this portion.

Mr. Meer opens the application to the General Public. Seeing none,
Mr. Meer asks for a motion.

Before a motion is called, Mr. Karas (Board Member) asks a question of Ms. Peck (Assistant Zoning Officer) regarding the height requirement of a fence located on the Northerly side of the property....

Ms. Peck replies 6ft. with a 25ft. setback required.

Mr. Karas asks if the applicant would agree to reduce the 6ft. to 5ft. the same as on Fern Street, to which Mr. Glessner replies yes.

Mr. Sacchinelli (Board Member) wants to clarify the Board is voting on a 5ft. fence with a 1ft. Lattice...6ft. total

Ms. Peck asks Mr. Karas to clarify what he is asking of the Applicant regarding the fence height.

Mr. Karas states 5ft. fence with a 1ft. lattice...

Discussion.....

It is determined, Mr. Karas is asking for a 4ft. fence with a 1ft. lattice. 5ft. total.

Discussion.....

Mr. Sacchinelli feels the applicant came to the meeting tonight to get a 6ft. fence, he agreed to drop down to 5ft. with a 1ft. of lattice so the character of the fence would be in unison straight across....

Discussion....

Mr. Dunay (Board Member) makes a suggestion. To vote as proposed with a 5ft. fence & a 1ft. Lattice based on the schematic that was prepared and if it were to fail, we could have another vote for the 4ft. fence with the 1ft. lattice.

Mr. Dunay makes a motion to approve the application noting the fence would consist of a 5ft. fence with a 1ft. lattice for a total of 6ft. all around as proposed.

Mr. Sacchinelli seconds the motion.

Discussion.....

Mr. Lowenstein (Board Member) asks if they could modify this. If the applicant is willing to go a 5ft. max at certain points...explains..

Mr. Lowenstein asks the applicant if he is willing to amend the motion for two things:

1. Portion that is parallel to Myrtle be a total height of 5ft. = 4ft. lattice-1ft. lattice

2. The Portion that is parallel to Fern/adjacent to neighbor will be 6ft=5ft. 1ft. lattice, and the part along/parallel to the driveway be a total of 6ft.=5ft. 1ft. lattice and the part parallel to Fern on the Fern Street side be in line with the end of the house with a total of 5ft.=4ft.-1ft. lattice...

Discussion amongst Members...

Mr. Dunay again discusses the proposal at hand. He would hate to force the applicant to amend if he has enough of votes for the as Proposed.

Discussion.....

Mr. Meer (Acting Chairman) states we will proceed with the vote on the motion that was made by Mr. Dunay & seconded by Mr. Sacchinelli.

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Seibel, Mr. Dunay, Mr. Meer, **YES.**

Mr. Lowenstein, Mr. Karas, **NO**

Motion Carries.
Application Approved.

Mr. Newman returns to take his seat as Chairman.

Mr. Blecher recuses himself from the following application.

3. Application #12-010, Michael and Michele Rosenblum
18-05 Hillery Street, Block 2710, Lot 6, Zone R-1-2
Board must determine Res Judicata. Proposed addition would increase the FAR From 34.6% to 40.9% where 37% is permitted. D-4 FAR variance is required as Per Section 125-57.D.(d){1}

Mr. Newman swears in: Stan Kupal, (Architect)
Oradell, N.J.

Michele & Michael Rosenblum (Applicants)
18-05 Hillery Street,
Fair Lawn, N.J.

Mr. Rosenberg (Board Attorney) recommends to the Board to accept Mr.& Mrs. Interior Designer as a Fact witness only.

Fees have been paid and there is proof of service.

Mr. Kufel begins his testimony regarding the Res Judicata argument...states he will go through the plans....

Speaks again to the hardships of the lot presented last month. Mr. Kufel continues with his testimony and notes they have tremendously cut back on the project...starting with the side yard....details...

Last month, we had a proposal for three variances-

1. Building Coverage,
2. Side yard setback &
3. FAR.

With this particular modification we are only requesting a FAR variance...

Explains...it will now be a 34.6% existing FAR to a 40.9% in a 37.5% requirement..

Comparison to the last application is clarified....previous was 45.6% FAR requested.

Mr. Kufel explains the details and the changes....

Mr. Newman clarifies with the Board; the current application as compared to the previous application has 1 request for a relief only...explains...

Mr. Newman notes the time and asks if there are no other Board Members who would like or feel a need to hear more as to why this may be Res Judicata, he would like to jump ahead if everyone on the Board is comfortable with what they have heard.

Seeing no one, Mr. Newman moves for a motion as to whether this application is Res Judicata.

Mr. Meer makes a motion to state the application does not qualify as Res Judicata.

Mr. Sacchinelli seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Dunay,
Mr. Meer & Mr. Newman, **YES.**

Motion carries: to proceed with new application.

Mr. Newman asks Mr. Kufel to continue.

Mr. Kufel begins his testimony with the new proposal explaining he did cut 64sf. out of the kitchen addition so the eating area no longer exists.

Mr. Kufel notes they still have very limited storage area in this house & would also like to make a correction from the last meeting. He stated they were trying to go to a 5 bedroom house. The existing house is a 5 bedroom house & the only addition upstairs is an additional bathroom...

Mr. Kufel wraps up his testimony....

Mr. Rosenberg (Board Attorney) would like to mark for the record, Exhibit A-1 is the Revised set of plans-dated 2/20/12 –Sheets 1 & 2 are noted.

Mr. Dunay (Board Member) clarifies the numbers on Exhibit A-1, Sheet 1-01 (Cover Sheet) with the Architect.

Discussion....

All Calculations are verified.

FAR: Existing 34.6%- Proposed 40.9%

No other questions from Board Members.

Mr. Newman opens the Application to residents living within 200ft. of the applicant for questions or comments, seeing none.

Mr. Newman opens the application to the General Public, seeing none.

Mr. Newman closes this portion and asks for a motion.

Mr. Lowenstein makes a motion to approve the application.

Mr. Meer seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Dunay,
Mr. Meer & Mr. Newman, **YES.**

Motion carries.

Application Approved.

Mr. Karas (Board Member) recuses himself from the following application.

Commercial New Business:

1. Application 12-011, Center City Transport,
23-00 Route 201, Block 5902, Lot 9, Zone B-1
Proposed overnight parking of limousines at the existing Limousine Offices.
Outdoor storage is not permitted in the B-1 Zone as per Section 125-24.D(4)
A D-1 Use Variance is required as per Section 125-57.D. (d){1}

Fees have been paid and there is proof of service.

Mr. Richard Kapner (Attorney on behalf of Center City Transport, LLC.) is here tonight to represent Mr. Andrew Karas (Attorney) who could not make it this evening.

Mr. Kapner states to the Board he would like to make this application as straightforward as possible. Notes to the Board, there are not a lot of papers before you because what we have for Center City Transport is a permitted use & an existing office building on 208S.

The only reason we are before you tonight is because overnight parking is not permitted at this building or any building in the B-Zone, but for new car dealers & garages to fix vehicles and cannot remove them every evening.

Mr. Kapner continues...he presumes & assumes the purpose for this is to reduce activity at night especially where it may interfere with/bother or otherwise cause concern to residential neighbors...

Mr. Kapner notes there are businesses that abut residential zones in Fair Lawn, and while this is one, you will find if you are familiar with the property, there are no residential neighbors adjacent to this property. There are residential uses to the rear of the property, but you have to traverse the ball fields, the pool, etc..

This particular property backs up to Elm Street, but is really part of the access ramp. In the rear of the property, there is a 10ft. retaining wall.

Testimony continues...

Mr. Kapner states for clarification: "The use is permitted. The daily parking is permitted. The only issue here is overnight parking. Mr. Locsh's business is Limousines, and frankly it is sometimes easier when you are servicing someone in N.J. and have to do so the next day, it would be easier to park there then have to return to the City to park in a garage which will soon be unavailable because of rising costs..."

Testimony continues...

Mr. Kapner notes; what we are requesting is the opportunity, when required. This will not be a consistent issue of parking, but when it is required for the vehicles to park overnight, where there will be no impact on residential neighbors. There will be no maintenance, no cleaning, and no washing. No business will be conducted by the vehicles while they are parked there.

Mr. Kapner finishes his introduction & asks that his client be sworn in.

Mr. Newman swears in: Mr. Zoly Locsh (Applicant & Principal Owner)
33-21 High Street
Fair Lawn, N.J.

Business Address: 2300 Rt. 208S

Mr. Kapner begins his cross examination of Mr. Locsh.

Mr. Locsh testifies he is the principal owner of Center City Transportation & he maintains his office at the existing location. He is permitted by Zoning Ordinance to park vehicles during the day and he is here tonight to obtain permission to park vehicles when necessary overnight.

Mr. Locsh explains he stores his vehicles overnight currently at his other location in New York. Explains because of the rising costs, they will no longer be available to him.

Mr. Locsh continues stating he has a lot of business in New Jersey and it would make more sense also because of Fuel consumption.

There will be no other use but for parking at this property. No washing, no service, no oil changes, nothing like that.

Cars would be parked & left.

Pictures of location are reviewed.

Testimony continues....

Drivers would drop off and leave. Movement would not disturb residents in the least.

Mr. Kapner has no further questions.

Mr. Newman questions the response from the Fire Department to which Ms. Peck (Assistant Zoning Officer) states their reply was they foresee no problems.

Mr. Newman states his concerns regarding safety...theft, security, etc. he would like a response from the Police Department stating they have no concerns regarding this operation. An agreement of sorts letting the Board know, they are ok with this because if it becomes a nuisance problem with the Police Department, it would fall back on the Zoning Board approval, made not in the best judgment.

Mr. Newman would like it verified from the Police they have no security, crime concerns. He would be uncomfortable giving any kind of approval without this.

Mr. Kaplan (Attorney) notes he has a copy of a green receipt card that notification was delivered and their failure to raise the issue may very well mean they have no issue.

Mr. Newman reiterates; it may very well mean there is no issue, but it also may not. I would like to press them for an answer in writing.

Mr. Newman states he has a report from our Board Planner...and notes;

There was no site plan submitted for review, so what we do have to go by the Applicant's word that the vehicles would be parked by the retaining wall. Beyond that, there is no schematic, nothing else to go on.

Mr. Newman questions the number of vehicles proposed for overnight parking.

Mr. Locsh (Owner & applicant) replies 15.

Mr. Newman notes this is a large number of vehicles...

Mr. Locsh does not anticipate having this many vehicles parked at one time but would like approval for this amount.

Discussion continues....

Are there assigned spots for these vehicles...?

Ms. Peck (Assistant Zoning Officer) questions the applicant because there are Borough Licenses involved here...if he is asking for 15 vehicles and he is only parking 5, where are the other 10 cars going to park? The cars have to be parked in N.J. in order to be licensed in N.J...the Clerk will be asked to sign off on the 15 cars, they will be parked overnight in the lot. I would like to see something put in the Resolution to assist her in this.

Discussion continues...

Mr. Newman questions Ms. Peck if the Municipal Clerk has been able to get in touch with the applicant, because he is aware of an issue about a month or so ago, where she sent correspondence to the applicant's address and received no reply...

Ms. Peck states that is why he is here now.

Mr. Sacchinelli has some questions and concerns....Is this a Black Car Service or a Wedding Service?

Mr. Locsh testifies it is neither; it is a High End Corporate Business. He has had his service for two years..

Mr. Sacchinelli continues his questioning asking the applicant if he has TLC.

Mr. Locsh testifies he has TLC decals on the cars.

Mr. Newman comments on Mr. Sacchinelli's knowledge of the Limousines Service, and commends him, but is clueless what the term TLC means.

Mr. Sacchinelli explains; TLC is the Taxi Limousine Commission. You cannot pick up in Manhattan unless you have the cars based in the City....

Mr. Sacchinelli asks the applicant where the cars are registered.

Mr. Locsh explains he has a license in New York...a Luxury based License in N.Y.

Mr. Sacchinelli asks; is it a PO or an office?

Mr. Locsh testifies it is an office in N.Y. with a 10,000square foot garage. In order for his business to work both ways, we need to be licensed both ways...with a TLC Registration.

Mr. Sacchinelli wants to verify what business address he is using to put the plates on the cars.

Mr. Locsh testifies he is using his address at the office in New Jersey.

Mr. Sacchinelli asks he was allowed to get 15 OL Plates?

Mr. Locsh states over time he plans to get 15 plates. He currently has 9 plates but a plan for expanding his business....he does not have 15 cars yet...

Mr. Sacchinelli again questions Mr. Locsh on how many actual cars are registered at the address in N.J. currently.

Mr. Locsh cannot answer this without checking.

Mr. Sacchinelli explains to Mr. Locsh; this is a big bearing on his decision. If you cannot tell me how many cars are registered under the N.J. address right now....

Mr. Locsh replies probably all of them.

Discussion continues...

Mr. Sacchinelli notes to the Board; these parking spaces he is seeking will actually have to be approved for 24hrs...not just overnight because when his drivers come to pick up the cars at the location, they will have to move the car and put their personal cars there. There may be up to 30 cars at one time during the switching hours if you are looking for 15 parking spaces...

Discussion.....

Mr. Locsh notes it will happen sometimes, some of the drivers take the cars home because they do not have their own cars...some drivers have to take the cars home because they have an overnight or early morning appointment...

Discussion continues...

Mr. Locsh again states at no time will he be parking all 15 cars by the building, but he wants to be allowed to do so if he chooses to expand the business...

Mr. Sacchinelli states his concern is; he just would like to be sure the cars are registered to the N.J. Office business address and not in N.Y.

Ms. Peck (Assistant Zoning Officer) explains this is the Clerk's position to do. He does have a CO to operate the Business only. The Licensing Bureau came in and he will need to put the cars somewhere in New Jersey and he came to me to go there, but he cannot without the Board's Approval. Only the cars that are licensed to this address will be registered by the Clerk.

Discussion continues....

Mr. Locsh explains what the new requirements or laws are pertaining to having a Limousine Business entails with the Licensing Bureau.

Discussion continues...

Mr. Kapner (Applicant's Attorney) would like to point out the problem here...

There is a different application of an Ordinance between Daylight & Nighttime. On his client's lease, by the CO, he could park 15 Limos all day....have the drivers come and

park their cars if they had to, all day, but as soon as it turns dark, it is no longer permitted because it is a B-Zone...

Discussions continue....

Mr. Newman asks Mr. Losch if the Landlord is aware of the amount of spots he is looking to get approval on. Do you currently have 15spots assigned to you?

Mr. Losch testifies his Landlord is aware. He can't allocate. He said I could park where I needed...

Mr. Kapner states there are no allocated spots. There is parking that is sufficient for the area within the building..

Mr. Newman asks if there are any issues with parking in general, when the building is in full use.

Mr. Losch states no.

Discussion continues....

Mr. Lowenstein (Board Member) would like to note; he was at the building/property being discussed and the entire lot has designated spots by Unit # or Office #'s...probably 80%. Of the parking spaces are allocated. There are designated spots for compact cars and spaces that are designated to the offices. It is a high volume building...explains...

Mr. Lowenstein would like to hear testimonies on the size of the vehicles...are they Lincoln Town Cars, Stretch Limos?

Mr. Losch explains; some are Town Cars, some are Vans (10 passengers) no Stretches.

Mr. Lowenstein continues; what location are we speaking of? There is striping...do you park wherever?

Mr. Losch states in the back of the building...

Discussion continues....

Pictures are reviewed...location of parking is reviewed.

Mr. Newman notes there are many valid points being made, along with valid points on our Planner's report, the first of which, a site plan has not been provided...in addition to that, traffic flow at the site during the day is busy.

Mr. Newman continues; we have had similar applications where we had to prove parking variances at multi use sites. In every application, a Site Plan, a Traffic Report is submitted and he does not see where this site is different, especially where there may be upwards of 15 designated spots and there are concerns with vandalism possibly overnight, traffic concerns during the day, issues with safety/lightening, etc..

Mr. Newman feels the Board needs to have a Site Plan, a Traffic Report Analysis. He notes he would like the Board Professionals to comment on these issues...

Discussion continues...

Mr. Kapner argues this point and states during the day, there is no need. It is a permitted use with a CO and to his knowledge there are no parking variances on the property. All of the uses have parking that is accommodated. All that is different here is overnight parking....

Discussion....

Mr. Kapner notes Mr. Losch has agreed for purposes of parking his vehicles, to park them in the back against the retaining wall at the farthest point from the front of the building or 208. For two reasons: Visual & Sound. You will not see them nor hear them.

Ms. Peck (Assistant Zoning Officer) comments, at the time he was issued his CO. It was for Office Use only. Up until now, we had no number on the amount of cars looking to park there.

Discussion continues...

Mr. Newman reiterates. He would like a Site Plan submitted to the Board and to the Board Professionals and we can proceed.

Mr. Kapner agrees to the carrying of the application without further notice required.

Discussion & clarification on whether the applicant will provide professional testimony before the meeting to our Professionals...

Mr. Newman confirms a Site plan and he will leave the decision up to the Applicant whether he would like to proceed without his own Traffic Analysis and our Traffic Engineer does not feel he needs a traffic analysis...

Application is carried to the meeting of April 23, 2012.

Mr. Newman opens to Public Comment, seeing no one.

Mr. Newman closes this portion.

Order of Business:

Vouchers:

1. Voucher submitted by Winne, Banta, Hetherington, Basralian & Kahn, in the amount of \$816.66 regarding Legal Services rendered to the Zoning Board for the month of March, 2012

Mr. Meer made a motion to approve this voucher and Mr. Lowenstein seconded the motion.

VOTE: All Present – AYE.

Minutes

1. Mr. Lowenstein made a motion to approve the minutes for the January 23, 2012 meeting and Mr. Dunay seconded the motion.

VOTE: All Present – AYE

Mr. Newman reads a memo from Mr. Bill Soukas, (Attorney) regarding 18-35 River Road, LLC., dated March 19, 2012....Applicant has requested a reduction on the amount of the Performance Guarantee that was posted in with the connection of the Development.....

Discussion.....

Mr. Newman continues with a 3 page letter from Paul Azzolina, PE of Azzolini & Feury Engineering to the Borough, dated March 5, 2012 recommending a reduction in the Performance Guarantee.

Mr. Newman reads a letter from Mr. Stuart Liebman, Esq. (Attorney for said Applicant) dated March 10, 2012 requesting a reduction in the same on behalf of applicant.

Letter dated, January 4, 2012 from Opper Group to Mr. Azzolina with a 2pg. document, entitled “Engineer’s Performance Guarantee Estimate” bearing a revision date of March 28, 2011.....

“In accordance with Mr. Azzolina’s recommendation, I have prepared for the Zoning Board’s consideration & approval, a Resolution approving Mr. Azzolina’s recommendation & in turn recommending to the Borough Council that would authorize

the Borough CFO to reduce the “Performance Guarantee” following the posting of a proper Maintenance Guarantee.”.....

Mr. Newman continues.....

Board Discussion.....

Amounts owed & reduction asked for is discussed....

Discussion continues....

Mr. Newman asks for a motion to approve the Resolution on 18-35 River Road, LLC.as discussed.

Mr. Lowenstein motions to approve the Resolution.
Mr. Meer seconds the motion.

VOTE: All Present – AYE.

Mr. Newman will carry the discussion regarding the “FAR Bonus” to the next meeting based on the time. No objections from the Board.

Adjourn

Mr. Blecher made a motion to adjourn this meeting and Mr. Lowenstein seconded the motion.

TIME: 11:00 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk