

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of June 18, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on June 18, 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. Seibel,
Mr. Dunay, Mr. Lancaster, Mr. Puzio & Mr. Newman

Absent: Mr. Lowenstein, Mr. Karas, Mr. Meer, Mr. Sina (arrived 8:05)

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

Professional Planner: Representing Birdsall Engineering, San Chevan,

Ms. Peck (Assistant Zoning Officer) brings to the attention of Mr. Newman, (Chairman) the members who are here tonight may not be eligible to vote on the Commercial application, Center City Transportation scheduled for tonight...

Discussion on who would be eligible to vote...

Mr. Andrew Karas, (Attorney) speaks on behalf of Center City Transportation. He would like to speak with his client before proceeding, seeing it is a D-variance, his client would need 5 votes out of 7...Mr. Karas notes his preference would be to recommend to his client not to proceed. Mr. Karas states his client is expected shortly & he will speak with him and get back to the Board.

Mr. Newman proceeds.

New Residential:

1. **Application#12-019, Ricardo Araya,**
19-15 Kipp Street, Block 4501, Lot 3, Zone R-1-3
Proposed 6ft. fence replacement of an existing 6ft. fence in the front yard setback where 3' is only permitted on a corner lot as per Section 125-38.A.

Fees have been paid and there is proof of service.
Mr. Joseph Stancato (Attorney) representing Ricardo Araya
241 Hudson Street, Hackensack, N.J. 07601

Mr. Newman asks if his client will be testifying this evening, to which Mr. Acoto replies yes.

Mr. Newman swears in: Mr. Ricardo Araya
19-15 Kipp Street
Fair Lawn, N.J. 07410

Mr. Stancato proceeds with his testimony...the applicant seeks a variance permitting the installation of a proposed 6ft. high fence which will replace a damaged 6ft. high fence in the front yard where a 3ft. is required...

Mr. Stancato explains the fence was struck by a drunk driver who was traveling south on Berdan Avenue along the rear of the property....explains the accident.

The applicant is seeking to replace the existing fence in its entirety. A survey is marked that would indicate the heights of the fence as it will vary.

Exhibit A: Survey of property, dated 5/29/12 Bayhar Surveying Associates P.C.

Discussion continues.

Exhibit B: 6 Photographs

Mr. Stancato continues with his description of what is proposed. He submits additional pictures to the Board.

Exhibit C: Additional Photos of type of fences proposed. Picket fence & Solid PVC which is proposed...

Mr. Stancata refers to the survey & explains how his client wants a 6ft. high fence along two locations, along Berdan Ave and next to the house where the existing one is....and the remainder would be 3ft...

Mr. Newman looks to clarify the location & height of fences proposed.

Site Triangle is discussed.

Mr. Newman states he is not comfortable with the idea of this Board granting the kind of relief that could cause an accident in the future, so I think the Site Triangle wherever it

may be, once established, should stay at the required 30inches regardless of what we approve for the rest of the fencing.

Mr. Stancata agrees.

Mr. Newman asks if there are any questions from Board Members.

Mr. Dunay (Board Member) would like to clarify....refers to survey.

Discussion...

Mr. Newman asks again if there are any questions from Board Members, seeing none.

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

Mr. Newman closes this portion.

Mr. Newman opens the application to the General Public. Seeing none,
Mr. Newman closes this portion & asks for a motion.

Mr. Dunay makes a motion to approve the application with the stipulation that the fence does not exceed 30” in the Site Triangle.

Mr. Blecher seconds the motion.

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Puzio, Mr. Newman, Mr. Seibel, Mr. Dunay,
Mr. Lancaster, **YES.**

Mr. Andrew Karas (Attorney) steps forward with the request to carry the application of his client, Center City Transportation to the following month.

Mr. Newman announces the following:

**Application 12-011, Center City Transportation
Carried to the Meeting of July 16, 2012
No Testimony to be heard.**

2. **Application#12-020, Kevin Frick,**
15-07 Everett Terrace, Block 4714, Lot 2, Zone R-1-3

Proposed 35'x19' In ground pool with 3' walkway around would increase the Impervious coverage from 32.01% to 44.07% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirement.

Mr. Newman swears in: Mr. Kevin Frick
15-07 Everett Terrace
Fair Lawn, N.J. 07410

Fees have been paid & there is proof of service.

Mr. Frick begins his testimony in regards to a 35x19' in ground pool in his backyard and since his property allows only 35% impervious, he will be over on coverage. After the pool is installed, he is looking at 44.7% impervious.

Mr. Frick explains he has neighbors within 200ft. of his property that have in ground pools in their backyard & gives the addresses of these properties.

Mr. Newman (Chairman) explains to Mr. Frick that each application stands on its own merit..

Discussion....

Mr. Newman refers to the Site Plan & enters it as Exhibit A1.

A1-Site Plan done by Pool Company.

Lot size is larger than the Ordinance requirement...

Mr. Newman notes there is a large amount of Impervious Coverage...

Mr. Newman asks if there are questions or comments from the Board.

Mr. Dunay (Board Member) would like to clarify...questions Mr. Frick on the Shed and clarifies with him he will be removing the shed.

Mr. Frick states yes and a Tree would also be removed...

Borough Tree Ordinance is mentioned.

Mr. Dunay notes it is a very substantial increase of Impervious coverage on the property and asks if there are other ways that he would consider maybe reducing the patio that goes around the pool or trying to use the existing patio behind the home as part of the patio that would complement the pool rather than building an entire new patio around the pool....

Mr. Frick notes after he submitted the paperwork, it was brought to his attention by the Contractor, he did put a seepage pit when he re-roofed his house & continues to state he could do another one or two to be sure the runoff from the roof is being brought into the ground water..

Ms. Peck (Assistant Zoning Officer) notes that the 3ft. walkway around the pool is required for bonding for the Electrical Code. It is the minimum walkway for bonding purposes.

Discussion continues.....

Mr. Sacchinelli (Board Member) clarifies the impervious coverage proposed is with the shed down?

Mr. Frick verifies.

Questions Mr. Frick about the filter...if it will be placed on concrete.

Discussion continues...

Mr. Newman asks Mr. Frick if he would consider making the pool smaller.

Mr. Frick states the next size down was 17x32...he had thought of making it smaller, but since he was going for the variance...he would try and go for the larger one.

Mr. Newman explains to Mr. Frick the issues...the majority of lots we end up dealing with are undersized lots. It is often the opinion of the Board, having an undersized lot at times can be considered enough of a reason to grant relief from impervious coverage, if the impervious coverage is of the deminimis.

Mr. Newman continues...explaining to Mr. Frick, his lot is larger than the 6500sf. required in the zone, so to consider the lot size an issue, we are unable to do this...we are struggling with this.

Discussion continues...

Seepage pits are discussed....

Mr. Puzio (Vice-Chairman) asks the size of the patio existing.

Mr. Frick testifies to 600sf...just under.

Mr. Newman asks Ms. Peck (Assistant Zoning Officer) if having the 17x32 would really change anything.

Discussion...Ms. Peck notes based on the shape...keeping in mind the walkways would change too.

Discussion continues...

Mr. Newman makes a suggestion to Mr. Frick. It might be behoove you to coming back without us voting tonight with other variations and other options you would be willing to consider, including the 17x32 or even another smaller size...reconfiguring your patio if you so choose, seepage pits with construction details and specifications that the Board could review and make a decision on...you could decide to go forward if you want.

Mr. Dunay (Board Member) notes to Mr. Newman, he should perhaps explain to Mr. Frick the consequences if Mr. Frick so chooses to move forward with his application...

Mr. Newman does so...

Discussion continues...

Mr. Newman notes to Mr. Frick, he does not have too many options tonight in terms of decreasing the impervious coverage which the Board would like to see happen or mitigating it somehow with seepage pits, etc...

Discussion continues...

Mr. Frick agrees with the Board and feels it would be in his best interest to come back with detailed information & agrees to his application to July 16, 2012.

APPLICATION CARRIED TO JULY 16, 2012.

Application#12-021, Ronen Wilk & Laura Fishler,

10 Bancroft Place, Block 3710, Lot 15, Zone R-1-3

Proposed New Entry/Renovations would increase the building coverage from 28% to 29% where 25% is permitted. Would increase the impervious coverage from 44% to 51% where 35% is permitted. Would reduce the existing front yard setback from 23.4' to 18.4' where 25 is required. Would maintain the existing side yard setbacks of 0 and 0.9 where 8' is required as per Section 125-12 Schedule of area yard and building requirements. Increase FAR from 49% to 50% where 40% is permitted requires a D-4 use variance as per Section 125-57.D.(1)

Mr. Newman swears in: Ronen Wilk
10 Bancroft Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman notes for the record, Mr. Sina (Board Member) arrived at 8:07

Mr. Wilk begins his testimony, explains to the Board he is looking to do improvements to their house and they need variances to build a small new entryway into the house and also widening of their driveway which affects lot coverage and impervious coverage.

Mr. Wilk explains he lives in Radburn and the lots are small to begin with. The house is not compliant without anything being done to it.

Mr. Wilk states they do have the Radburn Association's approval for this improvements & notes their immediate neighbors have significant larger coverage than he or similar...

Mr. Wilk refers to his photos submitted with his application to prove this...

Mr. Newman notes to Mr. Wilk, the Board has no dimensions or surveys on the properties noted, it is speculation based on photos...

Discussion....

Photos are reviewed by the Board.

Exhibits entered into evidence:

A: Plans submitted (3 sheets) by Verdigris Architects, dated April 6, 2012

B: Blow up Ariel Photograph-Google Maps

C: 4x sheets of photographs-totaled 14 photos.

Discussion continues.....

Mr. Newman notes he would like to state for the record for some of our newest Board Members the history of Radburn Proper, how it was constructed, the lot sizes, the parks, etc...why it was built this way. Historically, the Board looks at the parcels in Radburn a little differently, in other parts of town because of the large untouched lands in the park system which is part of that development. A lot of open space...tradeoff is; the houses are put together very closely on very small lots...starting out with a variance of a hardship of a very undersized lot, over on impervious coverage from the day it was built so anything you want to change requires a Impervious & Building coverage variance...we try to take this into account...

Mr. Newman summarizes & turns it over to Mr. Wilk.

Mr. Wilk proceeds with his testimony...

Discusses his proposal....referring to his neighbor's renovations...

Mr. Newman reminds Mr. Wilk that each application stands on its own merit and not the neighbors, so please focus on what he would like to do with his home.

Testimony continues....

Mr. Newman notes it is quite an undersized lot & difficult to stay within the 35% requirement...

Discussion continues....

Mr. Wilk explains he has the Radburn kitchen which is a Gallery kitchen and from his perspective it is hardly usable. He would like to break the wall between the Kitchen and the Dining Room and make it a open plan....in order to do this, we also would like to push out the entrance to the house so you would not be entering directly into the Dining room....the tiny bathroom, we would like to expand...and also the driveway we would like to widen..

Mr. Wilk continues his testimony....

Mr. Newman reviews the variances...asks if there was previous construction on this home.

Mr. Wilk testifies they did. They built another room above the garage.

Discussion continues...

Neighbor's setbacks are discussed in comparison to what Mr. Wilk is proposing.

Mr. Newman asks Mr. Wilk if it is his testimony that an 18.4' setback is keeping within the current characteristics of the immediate neighborhood.

Mr. Wilk replies certainly and this is why the Radburn Architectural Committee sided with his design proposed.

Mr. Dunay questions the driveway widening. How wide will it be?

Mr. Wilk thinks it will be 18ft. wide..

Mr. Dunay states he had stop by the area and noticed several homes in the area had very similar entryways that have been added to the homes and he does not see anywhere where it will detract from the appearance from the overall area.

Mr. Newman asks if there are any more questions or comments from the Board. Seeing none,

Mr. Newman opens the application to residents living within 200ft. of the Resident. 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.

Mr. Newman asks Ms. Peck (Asst. Zoning Officer) if they would need a FAR variance if they were on a 6500sf lot.

Ms. Peck states the Architect did not give any square footage, only percentages.

Mr. Dunay states he could probably do the math, and if it works...

FAR calculations are figured & discussed....

Mr. Newman summarizes the reason behind FAR discussion & asks for a motion.

Mr. Dunay makes a motion to approve the application.

Mr. Sacchinelli seconds the motion.

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Seibel, Mr. Dunay, Mr. Sina,
Mr. Puzio & Mr. Newman, **YES.**

Motion carries.

Application Approved.

- 4. Application#12-022, Ricardo Diaz/Lia Robles,**
22-12 Fairmount Place, Block 3522, Lot 16, Zone R-1-3
Proposed 12'x18' above ground pool would increase the impervious coverage from 47.63% to 53.39% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirement.

Mr. Newman swears in: Ms. Lia Robles & Ricardo Diaz (Applicants)
22-12 Fairmount Place,
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Ms. Robles begins her testimony explaining she would like to install an above ground pool. It is too big for the required area they have.

Discussion on Lot size...

Mr. Newman notes the applicants have an undersized lot for the Zone requirement of 6500sf.

Impervious coverage is discussed...

Mr. Newman asks if there are any questions or comments from the Board.

Mr. Puzio (Board Chairman) asks the applicant if they would be willing to take the pool down if they sold the house or in disrepair.

Ms. Robles agrees to this condition.

Mr. Newman reminds the Board, whoever makes the motion to include this stipulation, and if there are no more questions or comments,

Mr. Newman opens the application to residents living within 200ft. of the resident.
Seeing none,

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

Ms. Peck mentions the “Deed Restriction” needed in this application & asks if Mr. Rosenberg would please explain this to the applicants.

Mr. Rosenberg does so...explaining if the pool is approved, there are restrictions and the restrictions include, if you sell the house or the pool falls into disrepair or if it is not maintained it has to be removed. In order to make sure, if someone buys your home in the future, they know the pool does not go with the house and will have to be removed. You will need to change the Deed to your house, so this restriction is now of record.

Ms. Robles agrees to this and states she will do so.

Mr. Newman questions Mr. Rosenberg for future reference, on the pool being “Deed Restricted” but does not the impervious coverage for the approval still run with the approval.

Mr. Rosenberg states yes, it does not change. It is just the pool...

Discussion amongst Board Members...

It is discussed, hypothetically, if the new owner comes in, they can install a new pool, so in essence, we are just creating a headache.

Mr. Newman continues & asks...removing the pool when it falls into disrepair has to be “Deed Restricted”?

Discussion continues....

Ms. Peck (Assistant Zoning Officer) confirms there is an Ordinance that requires any “condition” you put on an applicant must be “Deed Restricted.”

Discussion continues...

Mr. Rosenberg clarifies: The Deed Restriction takes the pool, but the variance runs with the Land. The intention of the Board is this approval not run with the land for the pool because it is not a permanent structures...he believes this was the rationale of the Board in the years past, but the Impervious runs with the land.

Discussion & questioning continues amongst the Board members...additions are questioned and if this would be allowed being the impervious will run with the land...

Mr. Rosenberg clarifies after much discussion...The FAR would apply to someone who wants to put in an addition, not a patio but an addition. They would in fact be subject to the FAR. The fact that you have an Impervious coverage variance for the pool and the pool to be removed does not necessarily have the right 20yrs from now to double the size of their house.

Ms. Peck states it does allow them to put in a patio...

Discussion continues in depth...

Mr. Newman states what they need to do as a Board right now is take a different look at the way we have been looking at this, we may need to stop this type of “Deed Restriction”. It may be that it is not only a burden on the applicant, but also because it does not make a whole lot of sense....

Discussion continues...

Mr. Newman summarizes and notes to the Board if everyone agrees we do not need to ask for a “Deed Restriction” in this particular case and in the future.

Mr. Rosenberg agrees & supports the Board on this decision.

Mr. Newman asks for a motion.

Mr. Blecher makes a motion to approve the application.

Mr. Puzio seconds the motion.

VOTE: Mr. Blecher, Mr. Sacchinelli, Mr. Seibel, Mr. Dunay, Mr. Sina,
Mr. Puzio & Mr. Newman, **YES.**

Mr. Newman explains to the applicant that a “Deed Restriction” is no longer required as part of the approval.

Motion carries.

Application Approved.

Order of Business:

Minutes:

Gary Sacchinelli made a motion to approve the minutes for the **March 19, 2012** meeting and Mr. Dunay seconded the motion.

All Present: AYE

Discussion took place regarding previously approved, Application#12-018, Christopher & Patricia Berry being memorialized tonight with regards to a pool and a “Deed Restriction”.

Mr. Rosenberg states in light of the new policy which was adopted this evening, you may wish to amend that Resolution for those who voted in favor.

Discussion...

Resolutions:

1. Application #2012-016, Aleksandr & Valeriya, 27-15 Berkshire Road, Block 3211, Lot 9, Zone R-1-3– Proposed second driveway & curb cut- **Denied.**

Mr. Puzio makes a motion to accept these resolutions and Mr. Sacchinelli seconds the motion.

All Present: AYE

1. Application #2012-017, Neim Mamo, 15-19 Eberlin Drive, Block 4703, Lot 28, Zone R-1-3– Proposed Addition- Approved.

Mr. Puzio makes a motion to accept these resolutions and Mr. Sacchinelli seconds the motion.

All Present- AYE

2. Application #2012-018, Christopher & Patricia Berry, 37-19 Victoria Road, Block 2501, Lot 32, Zone R-1-2– Proposed above ground Pool- **Approved.**

Mr. Puzio makes a motion to accept these resolutions and Mr. Sacchinelli seconds the motion.

All Present-AYE

Adjourn

Mr. Puzio made a motion to adjourn this meeting and Mr. Sacchinelli seconded the motion.

TIME: 9:00 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk