

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of July 16, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on July 16, 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. Sacchinelli, Mr. Lowenstein, Mr. Karas, Mr. Seibel,
Mr. Lancaster, Mr. Puzio, Mr. Meer & Mr. Newman

Absent: Mr. Blecher, Mr. Dunay, Mr. Sina

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

No Board Professionals in Attendance.

Mr. Newman makes the following announcements:

Residential Carried:

1. 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.
Application carried to the meeting of August 20, 2012. No Testimony to be heard.

Commercial 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 Office.
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}
Application carried to the meeting of August 20, 2012. No Testimony to be heard.

New Residential:

1. Application #12-023, Steven & Andriana Tursi,
2-01 28th Street, Block 3308, Lot 23, Zone R-1-3
Corner Property-Proposed 6ft. fence in front yard setback on Rosalie Street where
only 3ft. is permitted only as per Section 125-38.A.

Mr. Newman swears in: Mr. Steven Tursi & Andriana Tursi (Applicants)
2-01 28th Street,
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Tursi begins his testimony asking for a variance for a 6ft. fence on a corner lot. It sits on the corner of Rosalie & 28th street. He bought this house as a rebuild. We are asking for the variance so we could put a fence from the side yard corner to Rosalie to create a private yard.

Mr. Newman questions Ms. Peck (Assistant Zoning Officer) if there were ever any previous variances granted on this property.

Ms. Peck explains there was a fence permit issued but upon inspection the applicant went further than he was supposed to.

Mr. Newman clarifies with Ms. Peck & Mr. Tursi the fence is already up.

Mr. Tursi continues his testimony referring to additional pictures he brought of the interior yard. The fence as it sits right now has no impact on vehicular traffic or pedestrian traffic as indicated by the pictures. It has no impact on the driveway either. We can clearly see. We have no problem backing out of the driveway.

Pictures submitted into evidence.

A-1-Pictures submitted with application.

A-2-Additional pictures applicant submitted 07/18/12

Testimony continues.

Board Members review pictures submitted.

Mr. Newman asks Mr. Tursi if there is a good representation of his driveway and the fence.

Mr. Tursi refers to a picture showing this.

Discussion...

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

Mr. Karas (Board Member) refers to the applicant's survey and asks Mr. Tursi how far is the corner of the fence from his property line.

Mr. Tursi states...2.4".

Discussion continues....

Mr. Tursi explains the reason they put the fence there was to create a privacy backyard.

Questions continue with regards to locations & height...

Mr. Tursi explains they misunderstood when getting the permit for the fence. We realized we were told you could not put a 6ft. fence in the front of the house, we didn't, so we put a 3ft. fence in the front and continued to put the privacy fence in.

Discussion continues...

Questions on the pictures submitted are discussed again....

Ms. Peck (Assistant Zoning Officer) explains what exactly the front yard setback requirement is and clarifies for the Board Members what he did...

Discussion continues. Line of Sight issues are discussed.

Department of Property Maintenance is discussed ...to investigate the height of hedges being sure they do not oppose a visual obstruction...

Mr. Newman summarizes the application before proceeding with asking for a motion.

Mr. Newman clarifies with Mr. Tursi his testimony stating he can see clearly see down Rosalie Street without putting the rear of the car into Rosalie St.

Mr. Tursi's states he can.

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 and asks for a motion.

Mr. Puzio makes a motion to approve the application with the addition of a stipulation that any fence facing Rosalie Street is not included in this variance relief.

Mr. Sacchinelli seconds the motion.

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

Motion carries.

Application Approved.

2. Application #12-024, Kenneth & Josephine Niemiec,
12-16 Scribner Road, Block 3619, Lot 14, Zone R-1-2
Proposed 2nd floor addition would increase the building coverage from 18.9% to 27.2% where 25% is permitted. Would increase the impervious coverage from 34% and 45.7% where 35% is permitted. Would maintain the side yard setback of and 9.4' where 10' is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Kevin John Niemiec (Applicant)
12-16 Scribner Road
Fair Lawn, N.J.

Jacob Soloman (Principal Architect)
GKA Architects
36 Aimes Avenue
Rutherford, N.J.

Fees have been paid and there is proof of service.

Mr. Newman certifies Mr. Soloman as an Expert Witness in Architecture with no objections from the Board.

Mr. Soloman proceeds with his testimony, stating this application has been before the Board in January of 2011. The variance lapsed for various reasons so we are re-presenting this application.

Mr. Newman clarifies with Mr. Soloman that the Board already heard testimony on this..

Mr. Soloman states yes and the application was approved on January 24th, 2011 Board. Mr. Niemiec had not started construction within the past 12months, so Ms. Peck (Assistant Zoning Officer) asked us to re-appear and re-present the application as a new application.

Ms. Peck explains. The construction was never started and the variance approval lapsed and they never asked for an extension.

Mr. Newman notes that nothing has changed; you are presenting the same application.

It is so noted.

Ms. Peck notes the Board Members who are here now and would remember this application were the following:

Mr. Lowenstein, Mr. Meer, Mr. Newman.

Mr. Newman concurs to Mr. Rosenberg (Board Attorney) if three (3) voted in the affirmative or negative.

Discussion....

Mr. Soloman continues his testimony explaining the reason they are here tonight. The lot is an irregular shaped lot, explaining dimensions...it is a significantly undersized lot. Existing side yard setbacks are also non-conforming....explains.

The proposed new addition set in the rear of the property will be in conformance with the rear yard setback requirement at 30ft. where 20ft. is required. The applicant is requesting relief from the Borough Ordinance Section 125-12, explains....Building coverage, impervious coverage...etc.

Testimony continues...

Mr. Soloman believes this variance could be granted without conflict or detriment to the intent & purpose of the Zoning Plan & Zoning Ordinance...

Discussion...

Mr. Newman asks Mr. Soloman; "Being the lot is substantially narrow, how if in any way did this affect the design for the improvements and how in any way does it affect the Impervious coverage."

Mr. Soloman explains....

Discussion continues....

Mr. Newman needs clarification on the side yard setback....denial letter is in conflict with what is being proposed...correction noted. He is asking for 9ft. where 10ft. is required...not maintaining the 9.4'...

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

Mr. Sacchinelli (Board Member) questioning undersized lot size...

Mr. Soloman notes they are in an R-1-2 zone where 7500sf lot is required and his client's lot size is substantially undersized...explains.

Discussion.....

Mr. Lowenstein (Board Member) questions Mr. Soloman and asks if he were to remove the Patio pavers, what would this do to the Impervious coverage..

Mr. Soloman notes if they were to remove the patio, it would be 42.2%...

Mr. Lowenstein explains the reason he asks. One of his specific concerns on any application has to do with deviations from the standards for impervious coverage given the realities of heavy rainfall, etc...

Mr. Lowenstein continues...asks Mr. Soloman if there is any way he could reduce the 45.7% impervious which is proposed to bring it down to the 35% which is permitted..

Mr. Soloman reviews the plan proposed....concurs to his client to answer any concerns regarding water issues...

Mr. Niemiec (Applicant) steps forward & testifies he never had water issues and does not foresee any. The property slopes down, the property behind him slopes down so they meet in a valley. There has never been an issue even under torrential rain where we had to worry about considerable flooding....It would not be pushing water onto my neighbor by any means...

Mr. Lowenstein asks Mr. Niemiec if there was any thought to remove the shed that is on the property now to reduce the impervious coverage, or is it critical to his plans.

Mr. Niemiec states it is pretty critical. He had other smaller sheds and had removed them so I have the one where I keep all the lawn & tools supplies.

Discussion on the Paver Patio....

Mr. Newman asks Mr. Soloman if the paver patio were removed from the proposal...you could still by Ordinance construct a deck of 5% coverage, correct?

Discussion.....

Mr. Newman asks if the applicant would oppose to agreeing on record to construct a patio of pervious pavers.

Ms. Niemiec steps forward to speak.

Mr. Newman swears in: Josephine Niemiec, (Applicant)
12-16 Scribner Road,
Fair Lawn, N.J.

Ms. Niemiec explains to the Board the reason why they are doing a patio rather than a deck was because they wanted to make it look as open as possible, so visually it would work, rather than creating something high off the ground, we are leaving it as open as possible..I have no objection to using something that could drain...

Mr. Newman asks if there are any other questions or concerns from Board Members,
Seeing none,

Mr. Newman opens the application to questions or comments from residents living within 200ft. of the applicant, seeing none. Mr. Newman closes this portion.

Mr. Newman the application for questions or comments from the General Public.
seeing none, Mr. Newman closes this portion & asks for a motion.

Mr. Meer makes a motion to approve the application with the stipulation the proposed patio in the rear be constructed of pervious type pavers and also to be noted this is an irregularly shaped & undersized lot.

Mr. Newman asks to amend the application. It should read; would increase the impervious coverage from 34% to 45.7% & would decrease the side yard setback to 9ft. where 10ft. is permitted. Also, it should be 2 story additions, not 2nd floor addition as stated.

Mr. Meer amends the application & motion.
Mr. Karas seconds the approval.

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

Motion carries.

Application Approved.

3. Application #12-025, Elly Lerner,
39-02 Kuiken Terrace, Block 1710, Lot 10, Zone R-1-3
Corner Lot-Proposed 6' fence in the front yard setback on Prospect Avenue where
Only 3ft. is permitted as per Section 125-38.A.

Mr. Newman swears in: Mr. Elly Lerner (Applicant)
39-02 Kuiken Terrace
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman would just like to remind the applicant & the Board every application stands on its own merit...explains this statement to Mr. Lerner.

Mr. Lerner understands and begins his testimony explaining he lives on Prospect which is a very busy street. He has a corner lot...

Mr. Lerner refers to the pictures submitted.

Set of 7 photos entered into evidence...

A1-Set of 7 photographs....streets are identified.

Discussion regarding photos....

Mr. Lerner continues. Speaks to one corner of his house where he would like to get privacy. People walk their dogs and look into his yard; It is a very busy street & he has a 3yr. old son he has to keep his eye on constantly...

Mr. Meer (Secretary to the Board) inquires about the hedges and asks if he is considering taking them out.

Mr. Lerner notes they will be inside the fence...but also notes he had a Landscaper look at them who stated the roots are so big, they were never going to grow beyond what they are now. They are very thin but he is keeping them...

Review of Survey by Board Members.....

Discussion continues...

Front yard setbacks are discussed & clarified.

Mr. Newman questions what type of fencing is proposed.

Mr. Lerner states one section would be vinyl & a chain link with slats in other sections. Explains the locations..

Mr. Karas (Board Member) refers to survey, speaking to a portion of the fence prior to the setback proposed along Prospect Ave & asks Mr. Lerner if he would consider

following the house line which is 20ft. off the property line and consider installing the fence at this line and therefore be in line with the house, which would enclose your back yard.

Mr. Lerner considers Mr. Karas's question and explains the reasoning why he feels this would cut off a very big chunk of his backyard...explains.

Discussion continues...

Mr. Karas disagrees with Mr. Lerner's explanation. He is asking for a compromise...

Mr. Lerner continues with his testimony as to why he would like to keep what he is proposing.

Mr. Newman asks Mr. Lerner if the proposed fence would present any line of sight issues....make it difficult to see oncoming traffic from Prospect towards Kuiken.

Mr. Lerner testifies no.

Discussion continues...

Mr. Lowenstein questions Mr. Lerner if he ever applied for a variance before on this home.

Mr. Lerner states he had. It was completely different from this. It was approved. It was to build a bathroom on the other side of the house. Unfortunately, I ran out of money & couldn't do it & didn't realize you have to apply for an extension...

Mr. Puzio (Vice Chairman) asks if Mr. Lerner would consider something in between the 20ft. & the sidewalk line for the fence, possibly 10ft.

Mr. Lerner would consider this if it is somewhere where the tree is...explains this.

Survey is reviewed and discussion continues.....

Mr. Newman asks if there are any other questions from the Board. Seeing none,

Mr. Newman asks if there are questions or comments from residents living within 200ft of the applicant. Seeing none,

Mr. Newman asks if there are questions or comments from the General Public. Seeing none,

Mr. Newman closes both these portions & asks for a motion.

Mr. Karas makes a motion to **deny** the application.
Mr. Lowenstein seconds the motion.

Mr. Newman states just to clarify; **A Yes vote is to deny the application. A No vote is to deny the motion, but not to approve the application.** There would have to be another motion to approve. We would do that subsequently.

VOTE: Mr. Sacchinelli: **No.** Mr. Lowenstein: **Yes.** Mr. Karas: **Yes.** Mr. Seibel: **No.**
Mr. Puzio: **Yes.** Mr. Meer: **Yes.** Mr. Newman: **No**

4 motion to deny.
3- to deny motion.

Motion: **Denied.**
Application is denied.

Mr. Newman explains to Mr. Lerner in order to return to the Board to seek an approval, he would have to come back before the Board with a substantially different application.

Mr. Lerner asks if the Board would have been ok with a 20ft. setback.

Mr. Newman states he cannot say what the Board **would have** voted on otherwise, it was a suggestion and because the vote was already made & carried, the only choice he has is to come back with a substantially different application.

Discussion continues...

Mr. Lerner understands & thanks the Board for their time.

Ms. Peck (Assistant Zoning Officer) asks for the carrying of Application #12-026 because there was a language issue involved and the Applicant might have misunderstood his need in being here tonight...

Mr. Rosenberg (Board Attorney) states; since the Applicant has noticed, the Chairman can make an announcement. The application can be carried to the next meeting.

Mr. Newman makes the following announcement for the record.

4. Application #12-026, Dariusz Majcher,
0-28 Plaza Road, Block 3223.01, Lot 1
Corner Property- Proposed 6' fence in the front yard setback on Prospect Ave
where only 3ft.is permitted as per Section 125-38.A.

Application to be carried to August 20, 2012. No Testimony heard.
Variance Extension:

1. Application#10-033, Benjamin & Sarah Keren,
0-61 27th Street, Block 3211, Lot 31, Zone R-1-3
A 2nd Story addition to an existing side yard setback of 9.76' where 10' is
required. Would reduce impervious coverage from 73.17% to 52.34% where 35%
is permitted.

Mr. Newman reads correspondence from Applicant's asking for a 2nd variance extension
for another year from the approval in 2010, stating reasons behind the request.

Discussion...

Mr. Puzio makes a motion to approve the extension.
Mr. Sacchinelli seconds the motion.

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

Mr. Lowenstein would like to note for the record, he believes on having a 2 year
expiration for giving variance extensions.

Discussion took place on this subject.

Mr. Newman opens for Public Comment, seeing none.
Mr. Newman closes this portion.

A discussion on request for a Special Meeting Date from Anshei Lubavitch Center for a
new roof & height variance...Ms. Peck explains.

Vote to have a Special Meeting is requested.

Mr. Meer makes a motion to approve request for Special Meeting.
Mr. Lowenstein seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Puzio,
Mr. Meer, Mr. Lancaster, **Yes.**

Mr. Newman, **No.**

Dates are discussed for attendance....

Minutes

Mr. Lowenstein made a motion to approve the minutes for the **April 23, 2012** meeting and Mr. Sacchinelli seconded the motion.

VOTE: All Present – **AYE**

Resolutions:

1. Application #2012-021, Ronen Wilk & Laura Fishler, 10 Bancroft Place, Block 3710, Lot 15, Zone R-1-3– New Entry/Renovations- Approved.
2. Application #2012-022, Ricardo Diaz/Lia Robles, 22-12 Fairmount Place, Block 3522, Lot 16, Zone R-1-3– Above ground pool- Approved.

Mr. Sacchinelli made a motion to accept these resolutions and Mr. Puzio seconded the motion.

VOTE: All Present – **AYE.**

3. Application #2012-019, Ricardo Araya, 19-15 Kipp Street, Block 4501, Lot 3, Zone R-1-3– 6ft. fence replacement-Approved.

Mr. Sacchinelli made a motion to accept these resolutions and Mr. Puzio seconded the motion.

VOTE: All Present – **AYE.**

Vouchers:

1. Winnie, Banta, Hetherington, Basralian & Kahn in the amount of \$ 816.66. Fee for Legal Services rendered in the month of June, 2012 meeting.
2. Winnie, Banta, Hetherington, Basralian & Kahn the amount of \$ 816.66. Fee for Legal Services rendered in the month of July, 2012 meeting.

Mr. Puzio made a motion to accept these resolutions and Mr. Sacchinelli seconded the motion.

VOTE: All Present – **AYE.**

Discussion on Lentini Application...review letter for August 20, 2012.

Adjourn:

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

TIME: 9:30 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk