

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Special Meeting
Of August 2, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Special meeting held on August 2, 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. Puzio,
Mr. Seibel, Mr. Dunay, Mr. Sina, Mr. Meer & Mr. Newman

Absent: Mr. Blecher, Mr. Lancaster

Also in attendance were Board Attorney; Bruce Rosenberg; Court Reporter; Candice Galaraza & Assistant Zoning Officer; Ann Peck,

Absent: Cathy Bozza (Zoning Secretary)

Board Professional in attendance: Board Planner: Peter Van Den Kooy.

Commercial New Business:

1. Application #12-027 Anshei Lubavitch Center,
10-10 Plaza Road, Block 3514, Lot 1 & 8, Zone R-1-2
Proposed new roof would increase the building height to 33'1" where 30'
is permitted. A D-6 height variance is required as per Section 125-12 schedule
of area yard and building requirements. Waiver granted from 125-47.1F. (7)
Roof Pitch 3 on 12.

Ira Levine (Attorney) steps forward on behalf of the applicant, Anshei Lubavitch. He thanks all the Board Members for the giving of their time & for a Special Meeting”.

Fees have been paid and there is proof of service.

Mr. Levine begins with his testimony stating he would hope the Board will view this application as de minimus...Anshei Lubavitch is a House of Worship, located at the intersection of Berdan Road & Plaza Road, backdrop being Rt. 208, which looms above the building with a considerable amount of trees which are considerably higher than the building, so visually the Architect will testify the variance we are looking for here tonight will not have any impact on the Community.

Mr. Levine notes, in being a House of Worship, he thinks it should be entitled to some consideration as a beneficial use...

Mr. Levine would also like to remind the Board members, this property is in a Residential zone and by Ordinance in the Borough of Fair Lawn flat roofs are frowned upon in Residential zones...this application is to add a peak and a Gable roof to the existing building resulting in a small excess over the height limitations required by the Ordinance.

Mr. Newman notes he would like the Ordinance cited and read into testimony.

Mr. Levine will do so, but in the meantime, would like to present his first witness: Mr. Allen Weitzman (Studio 5 Partnership/Architectural Firm)

Mr. Newman swears in: Rabbi Levi Neubort,
7-09 22nd Street
Fair Lawn, N.J.

Mr. Allen Weitzman (Licensed Architect)
55 Harristown Road, Glen Rock, N.J.

Mr. Newman clarifies Mr. Weitzman as an Expert Witness in the field of Architecture with no objections from the Board.

Mr. Weitzman begins his testimony. The application tonight is to construct a roof on top of an existing building. The roof is needed because the existing roof has leaks for as long as he has lived in Fair Lawn which is over 25yrs....

Mr. Weitzman notes to Board Members, they have looked at the drawings...it is a flat roof building. They are here tonight to discuss a D-6 Variance which is to allow the Principal building to exceed the allowable building height for the Zone.

Testimony continues...

The allowable building height in the R-1-2 Residential zone is 30ft. measured above the center line of the principal street fronting the building.

Refers to drawings...noting the height difference they are seeking.

The building is a "House of Worship" which is an inherently a beneficial use and is not prohibited in the R-1-2 zone and therefore the proofs are not as rigid....

Mr. Weitzman continues...there are two classifications that need to be addressed. One is the positive criteria and the other, negative criteria.

Testimony continues....

Mr. Weitzman passes photographs...

Entered into Exhibit:

- A-1 -Plans prepared by Studio 5 Partnership (details sheets)
- A-2- One single Photograph of existing roof
- A-3- Plan prepared by Studio 5 Partnership/entitled “Diagrammatic Section at Plaza Road Elevation”
- A-4- A series of photos of the Anshei Lubavitch Center showing existing buildings and Adjoining day care center taken by Studio 5
- A-5-Diagram of Exhibit T-100, sheet 1 of 3 Roof Replacement plans prepared by Studio 5.

Mr. Weitzman continues with his testimony, noting the building was constructed over 40 yrs ago and if they were to build this building from scratch today, they would not be here. They would have built the building so it would have complied with the Ordinance. They cannot tear the building down; they cannot tear the roof off and take all the steel away, it would not be reasonable, so they are proposing this roof. Why this pitch? The building existing is boxy and we are proposing to rectify all of the issues.

Mr. Weitzman reviews the Ordinance & explains the proposal....the roof will have warm & muted tones...

Mr. Weitzman reviews Exhibit A1, testifying the proposed gable roof would follow the existing pitched roof lines of the addition recently added. The roof would have a pitch of 3:12...

Testimony continues....

Mr. Weitzman explains if they were obliged to go to a shallower pitch, they couldn't use asphalt shingles, they would have to use rolled roofing...he does not feel anyone would want to look at a big black roof...they are willing to go to 4:12 which would be standard, but it would only make the height that much higher.

Mr. Weitzman points out the positive criteria & feels the proposed change would make the building more harmonious with the surrounding neighborhood. There is a Day Care Center just north of the building, with a peaked roof. There are houses across Plaza Road, all with peaked roofs...

This site is uniquely qualified for this issue because it is a large lot in Fair Lawn, 1.2 acres in size, has 208 to the West which is much higher than the building, has a bunch of trees along the edge of it...there is the overpass to the South...Commercial building to

the North and Plaza Road is one of the widest streets in Fair Lawn...more than 90ft. wide where most are 50ft. wide....

Mr. Weitzman addresses the negative criteria. The proposed roof change will not block Light or Air which is one of the reasons why the Borough has a requirement is to preserve light & air for adjacent neighbors.

Mr. Weitzman continues...

The proposed roof change will not increase density on the site. It will not increase impervious coverage and will not increase traffic, parking, etc....It will not set a precedent granting other Height variances in the Borough...explains...

It will not substantially impair the intent & purpose of the Zoning Plan...

As an Architect & a Resident of Fair Lawn, he recommends the Board grant a variance.

Mr. Weitzman completes his testimony and is open for questions from the Board.

Mr. Newman questions Ms. Peck (Assistant Zoning Officer) if there is anything in the Design Standards regarding façade & Stucco.

Discussion....

Mr. Puzio (Vice-Chairman) questions Ms. Peck on the Code requirement for minimum permitted roof pitch...

Discussion continues...

Mr. Newman questions if they would need to grant other specific variance relief on the roof pitch.

Discussion continues...

Exhibit A-4 entered into evidence...

Mr. Weitzman enters a series of Photos taken by Studio Five. They are photos of Anshei Lubavitch Center-A series of 7 photos showing recently constructed roof that he would like to align the new roof with.

Mr. Weitzman states in his opinion, due to the existing building configuration, including the recently added addition to the building, a different roof pitch would not be architecturally consistent with the building. The façade treatment of the proposed roof will be of a stucco material and would be consistent with the existing building and other

architectural features such as varied texture and would provide for an aesthetically pleasing appearance of the building.

Mr. Weitzman notes he is trying to encapsulate all of the issues on the roof once and for all...

Discussion continues...

Concerns from Mr. Puzio regarding water runoff and whether the existing mechanical systems on the roof could be removed or modified to lower the height of the roof or alleviate the need for the variance.

Discussion...

Mr. Karas (Board Member) questions A-2 Photographs...questioning & clarifying the location of the condenser & compressors. Questioning how replacement could and would be done if need be.

Mr. Weitzman addresses the concerns Mr. Karas has regarding the replacement of the condensers.

Mr. Weitzman details & reviews a blow-up of an inset on T-100, entered into evidence as **Exhibit A-5**.

Discussion continues...

Mr. Sacchinelli questions Mr. Weitzman if the roof is being designed around ductwork, because ductwork does come in any size & shape including rectangles.

Discussion continues...

Rabbi Neubort testifies he was up on the roof a long time, many times when they were measuring...their intention was to design the roof in such a way it complied and tried many times to do this...the issue the bottom of the struts would be lower than the ductwork. They thought of moving the ductwork as Mr. Sacchinelli has suggested, but they could not do that because there are steel beams....

Rabbi Neubort summarizes by explaining he would not be here tonight incurring the expense and wasting the Board's time. They had tried doing it every which way, but there is no other way, they have to keep the ducts, otherwise they cannot have air conditioning in the building. If they could have gone lower, if they were able to...they would have.

Split system is discussed...

Rabbi Neubort addresses Mr. Sacchinelli, explains he will be installing split systems and is very familiar with split systems. There will be multiple split systems, however for the Main Sanctuary and Social Hall it simply would not be a good idea. There are certain requirements by Law regarding intake & outtake and split systems do not have any output, it only brings it cool air...where it is legal, they will do that...but for this room, they cannot have the split systems, they must have the ducts and they must be on top of the steel and this is the lowest it gets...

Discussion continues....

Mr. Newman speaks to Design Elements...reads from Ordinance...Would like Mr. Weitzman to comment on the “Stucco” finish...

Mr. Weitzman states the existing building has many materials, sometimes it adds character to a building and in terms of creating interesting surfaces and textures, changes of materials accomplish this...there are a number of buildings in Fair Lawn with this synthetic Stucco...it is not new to the Borough and he feels it would enhance the appearance of the building to have these varied textures.

Discussion continues...

Clarification on Block & Lot numbers...

Mr. Newman swears in: Peter Van Den Kooy (Professional Board Planner)
Birdsall Engineering

Mr. Van Den Kooy details his report, focusing on the height issue and notes in his opinion the proposal provides ample air, light & space and answers Mr. Newman’s question whether or not the proposed roof would have any negative impact along Plaza Road.

Mr. Peter Van Kooy testifies the proposed roof would not have any negative impact along Plaza Road.

Mr. Dunay (Board Member) concurs with Mr. Rosenberg (Board Attorney) questioning the Positive & Negative criteria needed with the D-6 ...wants clarification.

Mr. Rosenberg explains the Positive & Negative Criteria necessary on this application...

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

Mr. Rosenberg would like to know and agrees with Mr. Puzio, having looked at 125-47(1) whether or not this particular pitch requires a waiver....questions Mr. Van Den Kooy (Board Planner)

Discussion...

Mr. Rosenberg reads from Ordinance...he feels the Applicant should amend his application to request this particular design waiver as part of a relief or motion the Board may grant or deny on this application.

Discussion...

Mr. Rosenberg defers to Ms. Peck, Assistant Zoning Officer.

Ms. Peck refers to 125-47.1F (7)...reads for the record.

Discussion...

The opinion of Ms. Peck, the Board Attorney & the Chairman, Mr. Newman is the Design Waiver should be added as to permit roof pitch of 3:12.

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

Mr. Newman closes this portion.

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

Mr. Newman asks Mr. Levine (Applicant's Attorney) or Mr. Weitzman to please review the positive and negative criteria when summarizing the application.

Mr. Levine begins...As the Board has heard, his applicant has gone to great extents to find alternate ways to do this so they would not have to be here. As pointed out earlier and Mr. Rosenberg has confirmed, this is an inherently beneficial building. It is entitled to the benefit with respect to the positive criteria in that regard. It is also a unique property; there is no other similar property in the Borough....explains...

Reviews the Ordinance...Mr. Levine believes the Applicant has met the negative criteria proving there is no negative impact in the Community whatsoever.

Mr. Levine continues.....

Mr. Levine relies on the testimony of Mr. Weitzman that all in respect to criteria have been met...

The application in his reading of the Ordinance is really de-minimus...this is an improvement in the Town and hope the Board considers it as such and approves this application.

Mr. Newman asks for a motion.

Mr. Meer makes a motion to approve the application to include a waiver from 125-47.1.F
(7) Roof pitch 3:12

Mr. Meer makes a motion to amend the approval to include Zone R-1-2

Mr. Karas seconds the motion.

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

Motion Carries.
Application Approved.

Adjourn

Mr. Puzio 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

Mr. Puzio makes a motion to go into Closed Session.
Mr. Karas seconds the motion.

VOTE: AYE –All Present

Estimates:

1. Estimate submitted by *****in the amount of *****regarding *****
2. Estimate submitted by *****in the amount of *****regarding *****

*****made a motion to approve these estimates and *****seconded the motion.

VOTE: All Present – AYE.

Resolutions:

1. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.
2. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.
3. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.
4. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.
5. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.
6. Application #2012-, *****, ***** Street, Block ***, Lot **, Zone ****-
****- Approved.

7. Application #2012-, *****, *****, Street, Block ***, Lot **, Zone ****-
****- Approved.
8. Application #2012-, *****, *****, Street, Block ***, Lot **, Zone ****-
****- Approved.
9. Application #2012-, *****, *****, Street, Block ***, Lot **, Zone ****-
****- Approved.

*****made a motion to accept these resolutions and *****seconded the motion.

VOTE: All Present – AYE.

Vouchers:

1. *****in the amount of \$****for *****fee for*****, 2010 meeting.

*****made a motion to accept these resolutions and *****seconded the motion.

VOTE: All Present – AYE.

Minutes

1. *****made a motion to approve the minutes for the*****, 2012
2. meeting and ***** seconded the motion.

VOTE: All Present - AYE

Adjourn

*****made a motion to adjourn this meeting and *****seconded the motion.

TIME: *****P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk