

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of September 24, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on September 24, 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. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Dunay
Mr. Lancaster, Mr. Puzio, Mr. Meer & Mr. Newman

Absent: Mr. Blecher, Mr. Sacchinelli, Mr. Sina

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

No Board Professionals in Attendance.

Announced 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 meeting of October 22, 2012. No Testimony to be heard.

2. Application #12-029, John Vigilante,
8-01 Fern Street, Block 5815, Lot 12, Zone R-1-3
Proposed new storage loft to existing garage would require a C-2 Variance as per Section 125-12 schedule of area yard and building required.

Application will be heard later this evening upon arrival of Attorney.

New Residential:

1. Application#12-031, Paul DiPalma

9-01 Saddle River Road, Block 1514, Lot 1, Zone R-1-2

Corner property-Proposed additions and renovations would decrease the impervious coverage from 50.3% to 38.8% where 35% is permitted. Removal of a portion of dwelling on Saddle River Road would increase the existing front yard setback from 8.7' to 14.8' where 30' is required. Would increase the existing side yard setback from 2.4' to 2.9' where 12' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Karas (Board Member) has recused himself from this application.

Mr. Newman swears in: Paul DiPalma
24-24 Hamburg Turnpike
Wayne, New Jersey

Raymond Boos (Architect)
13-01 Plaza Road
Fair Lawn, N.J.

Mr. Newman certifies Mr. Boos as an Expert Architect with no objections from the Board.

Fees have been paid and there is proof of service.

Mr. DiPalma begins his testimony stating he purchased a home at 9-01 Saddle River Road with the intention of adding an addition and renovating it. He then explains when he handed in the plans he was told he needed a variance.

Mr. Newman clarifies the variance he is asking for. A decrease in Impervious coverage from 50.3% of 38.8% but unfortunately where only 35% is permitted which still brings you before the Board....you want to remove a portion of the dwelling on Saddle River Road which would increase the existing front yard setback & increase the existing side yard setback. You are improving the overall situation on all fronts but still each of the situations requires variance relief.

Mr. Newman asks Mr. Boos to detail the proposed changes.

Mr. Rosenberg (Board Attorney) interjects for purposes of the record & asks Mr. Boos if he would be testifying from a sheet of plans submitted with the application, consisting of 12 sheets. He believes the Board only received 6 sheets.

Mr. Boos explains...what initially was turned in were those for a permit...electrical drawings, etc... the Board has only been given the 6 drawings which address the issues, particularly the site which shows what we are doing and the elevation which shows the proposed height of the building.

Mr. Rosenberg states he would like the record to reflect, Exhibit A-1 are the sheets prepared by Mr. Boos and although it states 12 sheets, the Board has been provided with 6 Sheets for purposes of the testimony & the application.

Mr. Boos begins his testimony explaining the proposal...refers to SP-1-Site Plan Sheet...details the site & proposal...1st floor addition is within the 12ft setback to the side of the building...explains.

Lot is a bit odd shaped, corner lot and has two front yard setbacks and two side yard setbacks.

Discussion continues...

Mr. Lowenstein (Board Member) questions SP-1, upper left it says to be removed---is this vegetated or structural?

Mr. Boos testifies Structural...explains...

Discussion continues...

Mr. Lowenstein also questions the removal of a 6-7ft. concrete wall which is clarified.

Mr. Meer (Secretary to the Board) notes this proposal is definitely an improvement and more in line with the homes in the area.

Discussion continues....

Mr. Dunay (Board Member) comments he is struggling with the fact the home existing, although outside the requirements of setbacks is basically not an opposing edifice. He is concerned with taking a structure which is relatively a modest home and turning it into a relatively imposing two floor structure.

Mr. Boos testifies the proposed second floor addition is within the 12ft. side yard, the existing one floor structure is going to remain. We are not touching that...explains.

Mr. Dunay's concern is alleviated by Mr. Boos testimony.

Mr. Newman questions if there would be any obstruction of light, air flow, etc...which would create a situation here...no line of sight issues.

Mr. Boos states no.

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

Mr. Newman opens the application to Residents living within 200ft. of the applicant.

Mr. Newman swears in: Teovor Lazar
41-02 Erli Road
Fair Lawn, N.J.

Mr. Lazar questions the plans. He has not had a chance to look at the plans and would like to review the application or drawings and have a chance to comment before the Board makes any decision. He is the neighbor right next door.

Mr. Newman explains to Mr. Lazar, technically he has had the opportunity. The plans are on file in the building department and when you are noticed, the opportunity is there to review the plans. If the Applicant has no objections & Mr. Boos has no objection to taking a minute to show you the plans now, please have a seat & take a minute to look...

5-minute Adjournment is called.

Mr. Lazar is satisfied with the plans and has no concerns or objections.

Mr. Newman asks if there is anyone living within 200ft. of the applicant who has questions or concerns. Seeing none,

Mr. Newman closes this portion.

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

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

Mr. Meer makes a motion to approve the application.

Mr. Puzio seconds the motion.

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

Motion Carries.

Application Approved.

2. Application#12-032, Stanley & Joan Ehrlich,

3-10 Pickett Place, Block 1307, Lot 1, Zone R-1-2

Property is corner lot. Proposed 14x14 Deck would be 14.7' from the front yard setback along Prescott Place and 28.61' from the front yard setback along Pickett place where 40' is required for accessory structures within the front yard setbacks as per Section 125-12 schedule of area yard and a building requirements, Section 125-42.A. (2) Accessory buildings structures and uses.

Mr. Newman swears in: Stanley Ehrlich & Joan Ehrlich,
3-10 Pickett Place
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Mr. Ehrlich begins his testimony by explaining he & his wife are both planning on retiring this year and would like to do some improvements to the property and one of them would be to put a new deck up and I found out since we are on a corner, we do not have a backyard, we have two front yards and it now creates a problem. Explains.... 14x14 deck over an existing patio. The property is fenced in and would not be visible...

Refers to pictures submitted with the application.

Discussion.....

Mr. Newman asks Mr. Ehrlich if the reason he is choosing this location is to utilize the existing patio as a foundation for the deck.

Mr. Ehrlich states no & explains he will still have to dig columns but the reason why they are doing it is because the back door will go out to the deck...

Discussion continues.....

Mr. Puzio (Vice-Chairman) states the concrete patio is counted as impervious coverage even though he is putting a wood deck above it and to keep this in mind in case he wants to make additional changes in the future...

Mr. Ehrlich so notes the information.

Mr. Rosenberg (Board Attorney) notes for the record the entering of the Proposed Site Plan into evidence as Exhibit A-1

Discussion....

Mr. Lowenstein (Board Member) has concerns regarding the concrete pad underneath getting lost in the shuffle over the years and should somehow be noted in the Resolution.

Ms. Peck (Asst. Zoning Officer) suggests it be written in the Resolution the concrete patio is to remain under the deck...

Size of patio is questioned....

Mr. Ehrlich believes it to be 18x18 Or 20x20...deck will be smaller than the patio..

Mr. Lowenstein is satisfied with this information.

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

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

Mr. Newman closes this portion and opens to questions or comments from the General Public. Seeing none,

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

Mr. Lowenstein makes a motion to approve the application with the notation of the existing patio.

Mr. Meer seconds the motion.

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

Motion Carries.
Application Approved.

Mr. Newman announces he will move back to **Residential Business Carried.**
Let the Record show, Mr. Bruce Rosenberg (Board Attorney) has recused himself from this application.

Mr. Newman (Chairman) has also recused himself.

Mr. Puzio, (Vice Chair) will be Acting Chairman.

Mr. Bill Soukas (Acting Board Attorney) to provide Council for this application.

1. Application #12-029, John Vigilante,
8-01 Fern Street, Block 5815, Lot 12, Zone R-1-3
Proposed new storage loft to existing garage would require a C-2
Variance as per Section 125-12 schedule of area yard and building
required.

Mr. Puzio swears in: John Vigilante,
8-01 Fern Street
Fair Lawn, N.J.

George F. Sincox (Architect)
Westfield, N.J.

Mr. Puzio certifies Mr. Sincox as an Expert Architect without objection from the Board.

Fees have been paid and there is proof of service.

Mr. Vigilante explains what his proposal is...wants to peak the garage roof. According to the code only 15ft. is allowed. He would like to go to 18ft. The reason he would like to do this is he would like to keep the shape of the garage....

Mr. Sincox (Architect) explains when the Homeowner asked him to take a look at the project, it became apparent to him a project like this with this much coverage on the site usually predates any Zoning Ordinance that gets past. This site is extremely developed..

The existing garage is very commercial in nature. It stands 13ft. tall with a Flat roof with a large double door.

Mr. Sincox refers to the pictures. He would like to create an area where he could store lawn furniture, Xmas decorations, and seasonal things where it would be above and he could have a stairway that could access this so he would not have to crawl on his hands or knees without injuring himself.

Mr. Sincox continues...looking at the different heights to get a large SUV in for instance, a ceiling & a floor above that, and a roof where you could move up a ladder, stand up and access some of the storage, we would have to be in the neighborhood of 18ft. as opposed to 15ft. which is the requirement.

Mr. Sincox testifies they would not be changing any setbacks, not changing any coverage; we will only be raising the roof....

Testimony continues....

Mr. Vigilante testifies because it is a flat roof, he has a problem with snow. Explains.... He had to shovel two tons of snow two years ago when we had the big snowstorm. Also, bringing it up to the little peak, it wouldn't make it so flat looking. He would like to maintain the barn shape...

Mr. Karas (Board Member) refers to pictures submitted with application & plans proposed. Cosmetically feels it is a major improvement. He does not have a concern with

the increase of 3ft. over the requirement, but he does notice in the second photograph, there is a truck parked in the driveway which is part of the applicant's business.

Mr. Karas has concerns in regards to storage being used for Commercial purposes.

Mr. Vigilante testifies there are two cars in the garage. He keeps his tools there, paint cans, stains. Things he uses around the house.

Mr. Karas continues stating the Architect has testified the applicant is only going to utilize the second story of the garage for personal items and not Commercial items and asks Mr. Vigilante if he is in agreement with this.

Mr. Vigilante testifies yes.

Mr. Dunay (Board Member) also agrees with Mr. Karas stating it will be an improvement, but his concern is structures are relatively close by the home, by the garage to the house adjacent to it. In your opinion, would there be any obstruction to light or a view or bear negatively on your neighbor if you had a higher garage.

Mr. Sincox testifies there will be no detriment whatsoever to the neighbor's quality of life due to any restricted light or view that does not already exists.

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

Mr. Puzio opens the application to Residents living within 200ft. of the Applicant.

Mr. Puzio swears in: Harvey Washington
22-13 Central Avenue
Fair Lawn, N.J.

Viola Tramontin
22-15 Central Avenue
Fair Lawn, N.J.

Lois Martini (Daughter of Ms. Tramontin)
6 White Oak Gagers
Salisbury Mills, N.Y.

Mr. Washington is here tonight with concerns. He has been living here 15years and most of the work being done is Commercial work out of the garage. There is traffic from all types of plumbing business, some days he cannot get to his home. He has concerns he will use the storage for plumbing supplies, not for personal items...

Mr. Vigilante is questioned on this. He states he does not deny he has his truck in the driveway and does have a few guys that work with him. They come in the morning with their trucks and park on the street. It's their personal trucks. He leaves in the morning and doesn't come back until the end of the day.

Ms. Tramontin testifies she is concerned about the traffic in the area and always has different workers. The garage is overloaded with materials used for his business. Ms. Tramontin testified he spoke of this garage and how he would like to increase the area for his plumbing supplies. He said nothing of his personal things. The garage is so loaded he cannot park his cars in there and he has tenants that have cars. The area is loaded with cars. States on Sunday, Mr. Vigilante cuts pipes and feels the area is not a nice area anymore.

Mr. Puzio opens the application to the General Public.

Mr. Puzio swears in: Mr. Leonard DiPeri
8-05 Fern Street
Fair Lawn, N.J.

Mr. DiPeri testifies he has been living in the house next to Mr. Vigilante for 35 years and the garage is an eyesore. He feels the applicant is doing something which will be an improvement and would look a lot better. He is aware of the applicant's business in which employees do come in the morning but are gone within 15 minutes.

Mr. DiPeri continues to state the only work he has seen being done at the house is not of a commercial matter, but of a personal matter. Maybe once in a while, a pipe is being cut in the driveway and Central Ave is 75ft long and put two cars on that street and it looks crowded...

Mr. Karas (Board Member) asks the applicant if he would have any objection to a condition in the variance, that being; the garage and the premise would not be used for any Commercial purpose.

Mr. Vigilante testifies he has no problem with that at all.

Mr. Puzio asks if there are any other questions from the Board. Seeing none,
Mr. Puzio asks for a motion.

Mr. Karas makes a motion to approve the application which would include the provision, under no circumstances is the garage or the storage loft above the garage or the premises in question be used for any Commercial purposes including storage.

Mr. Meer seconds the motion.

VOTE: Mr. Lowenstein, Mr. Karas, Mr. Seibel, Mr. Dunay, Mr. Lancaster,
Mr. Meer & Mr. Puzio, **YES.**

Mr. Soukas (Attorney) explains to the applicant there is a Deed Restriction that needs to be filed since the application has been granted subject to a “Condition” related to the use of the property. He will have to memorialize it with a “Deed Restriction” which will further the Resolution and be recorded in a chain of title. Recommends to Mr. Vigilante if he has an Attorney who works on the Deed, to please put him in contact with him and they will take care of that for him. It is a condition of approval and is a requirement of this Town.

**Motion Carries.
Application Approved**

Let the Record show, Mr. Rosenberg (Board Attorney) & Mr. Todd Newman (Chairman) return to the Dais.

Mr. Newman re-opens Residential New Business.

3. Application#12-033, Edward Dagnino & Maritza Hernandez,
10-17 Fairhaven Place, Block 4411, Lot 7, Zone R-1-3
Proposed 10’x10’ patio would increase the impervious coverage from 46.93% to 48.59% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirement.

Mr. Newman swears in: Ms. Maritza Hernandez & Edward Dagnino
10-17 Fairhaven Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Dagnino begins his testimony stating they are here this evening to obtain a variance for a 10x10 patio that was removed to widen the driveway.

Mr. Newman clarifies the approval of the driveway widening.

Mr. Dagnino explains he went to obtain a permit to widen his driveway but was over on impervious coverage so they agreed to remove the patio area....tried many ways to utilize the removal of the patio concrete pad with growing grass, very shady area with the trees, so it never grew. Tried Sod. In the rain, the water does not drain from the area, grade

issue, remained muddy and you drag in mud....space has become useless so we would like to put back the 10x10 patio.

Mr. Newman questions the lot size. Frontage requirement is 65ft.x100

Mr. Puzio clarifies the applicant removed the patio to obtain a larger driveway, and want to put back the patio...

Discussion on how many cars are parked in the driveway.

Mr. Karas has concerns & understands what the applicants would like to do but notes the lot is slightly under code being 5835sf according to the survey and the zone requirement is for 6500sf...the property already as far as impervious coverage is at 46.93% which is 12% over the Ordinance requirement of 35%...which is quite substantial.

Discussion continues...

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

Mr. Newman addresses both applicants and notes Mr. Karas's concern being they have a legal size lot for the zone, yet have a significant amount of impervious coverage, more than 10% above what is allow and looking to increase it with a 10x10 patio.

Mr. Newman asks if there is anywhere they could remove any of the existing impervious coverage.

Mr. Dagnino testifies no.

Ms. Hernandez states the doorway leading out of the house to go to the garage and throw out trash, I have to go through it and its muddy, the dog drags in the dirt. We have tried stepping stones, but they kept sinking because the area never dries.

Mr. Newman questions why the area is always wet. Questions if there are liter pipes going down into the area?

Mr. Dagnino explains there is a downspout....describes when first patio was removed.....and the problem regarding this.

Mr. Karas notes the house is very maintained and very attractive looking and questions if the driveway & walkways are pavers.

Mr. Dagnino testifies yes, they are pavers with sand to help with drainage.

Mr.Dagnino further testifies he would do the patio with the same type of pavers.

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

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

Mr. Newman closes this portion and opens to the General Public for questions or comments. Seeing none,

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

Mr. Karas makes a motion to approve the application with a condition the applicant has agreed to, which is the patio will be done with pavers.

Mr. Seibel seconds the motion.

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

Mr. Lowenstein, Mr. Dunay, **NO.**

Motion Carries.

Application Approved.

4. Application#12-034, Alex & Amy Hopwood,
340 Howard Avenue, Block 3705, Lot 7, R-1-3
Proposed patio will increase the impervious coverage from 41.14% to 43.81%
Where 35% is permitted as per Section 125-12 schedule of area yard and
building requirements.

Mr. Newman swears in: Ms. Amy Hopwood
340 Howard Avenue
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Ms. Hopwood begins her testimony. She & her husband purchased this home a year ago and is located in Radburn. After moving in, they wanted to upgrade the entire yard because it had not been taken care of in a while. The permits were obtained to replace the walkways and we replaced them with pavers. There is an existing concrete pad and we would like to replace this area also. The back corner of the house, there is a downspout with a liter running along the back of the garage and previously the owner had a perforated pipe to take all that drainage into the ground and we plan to put another

perforated pipe to go 20 inches or so into the gravel so that any water coming from the downspout forms a drywell underneath the patio. The other downspout at the back of the house goes out again with a perforated pipe in the direction of the Radburn Park area that is adjacent to the property.

Discussion on Radburn approval...

Ms. Hopwood states it was submitted with the application.

Mr. Newman speaks to size of lots in Radburn, noting their lot is 45.33ft.x73.32ft., which gives you a 3300sf lot, which is half of what is required in the zone...significantly an undersized lot.

Discussion....

Mr. Seibel (Board Member) questions if there is currently an existing patio...

Ms. Hopwood explains it was there but it is gone because the Landscaper took the concrete out when they were doing the other work and started to put down gravel and once we understood we need a new permit, we stopped.

Discussion continues....

Mr. Lowenstein (Board Member) refers to photographs...questions if these are the pavers reflected in the walkways which will replace the patio...

Ms. Hopwood states the type of pavers is Aqua Bric Type 1 with Amer-Teck...we specifically chose the permeable pavers which require much more gravel...details this type of paver.

Mr. Dunay (Board Member) clarifies numbers on square footage of the lot.

Mr. Newman asks if there are any other comments or questions from Board members, seeing none,

Mr. Newman opens the application to Residents living within 200ft. of the Applicant. Seeing none,

Mr. Newman opens the application to questions or comments from 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. Puzio seconds the motion.

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

Motion Carries.
Application Approved.

5. Application#12-035, Robert & Theresa Bergamini,
0-10 West Amsterdam Avenue, Block 2216, Lot 12, Zone R-1-3
Corner property. Proposed 2nd floor addition would maintain the existing
impervious coverage of 44% where 35% is permitted. Maintain the existing
front yard setback on Ryan Road of 0.6” where 25’ is required. Maintain the
existing front yard setback on West Amsterdam of 21.2’ where 25’ is required.
Maintain the existing side yard setback of 6’ where 8’ is required. Maintain the
existing height of 30.67’ where 30’ is permitted as per Section 125-12 Schedule
of area yard & building requirements. Section 125-57.D.(c){2}C-2 variance.

Mr. Lowenstein recused himself from this application.

Mr. Newman swears in: Theresa Bergamini & Robert Bergamini
0-10 West Amsterdam Avenue
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Ms. Bergamini testifies they submitted a proposal for a second floor addition, front
dormer and when we did, we found out the existing structure had a issue with
zoning...explains...

Mr. Newman clarifies and states basically they want to go up and are not changing
anything but having a number of existing non-conformities to work with. It creates a lot
of problems for sure. The non-conformities are pretty straightforward, so tell us about the
improvements.

Ms. Bergamini explains there is an existing upstairs, there are two bedrooms and a
bathroom, the main concern was to put a common hall wall. When you come up the stairs
you have to go through the Master bedroom to get to the other bedroom and the
bathroom. In doing this, we would have to take space from the Master bedroom so we
proposed to do is to open up the front wall to add a dormer, like the rest of the block has
done.

Mr. Newman simplifies it by adding: you are only going up on a portion of the house and not the whole house.

Discussion....

Mr. Bergamini notes it will be flush with the first floor, it's not going to overhang. Will not go any higher, etc...

Question is asked on any negative criteria regarding Air, Light and any obstruction to your neighbor to which the answer is no.

Ms. Peck (Assistant Zoning Officer) notes 125-32(C) is the exception for enlarging non-conforming structures and lots. They would not be here, had the front yard not been so narrow. They would have been exempt from the variance. Explains...

Discussion continues...

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

Mr. Karas (Board Member) questions the façade material.

Mr. Bergamini replies it would be siding.

Mr. Newman notes there are enough hardships to the shape of the parcel. The two front yards, to clearly justify all of the existing non-conformities, and as the Assistant Zoning Officer has explained you would not even be here tonight if not for the one non-conformity.

Mr. Newman opens the applicant to residents within 200ft. of the Applicant for questions or comments. Seeing none,
Mr. Newman closes this portion.

Mr. Newman opens the applicant to the General Public for questions or comments. Seeing none, Mr. Newman closes this portion and asks for a motion.

Mr. Puzio makes a motion to approve the application.
Mr. Seibel seconds the motion.

VOTE: Mr. Karas, Mr. Dunay, Mr. Lancaster, Mr. Puzio,
Mr.Meer&Mr.Newman,**Yes.**

Motion Carries.
Application Approved.

6. Application#12-036, Mladen & Frankia Komarica,
28-12 Berkshire Road, Block 3209.01, Lot 1, Zone R-1-3
Proposed overnight parking of two commercial vehicles in a residential zone where two are permitted but one must be garaged. Weight of vans exceed the permitted three quarter ton capacity. Section 125-40.A.(b) 125-40.A.(b){1}
D-1 Use variance required as per Section 125-57.D.(1)(d){1}

Let the record reflect, Mr. Lowenstein returns to the Dais.

Mr. Newman swears in: Mr. Komarica.
28-12 Berkshire Road
Fair Lawn, N.J.

Mr. Igor Komarica (Son)

Fees have been paid and there is proof of service.

Mr. Komarica (Son) begins his testimony explaining they are both employed by a Contractor in Manhattan...working different hours and due to the nature of the work they need two Commercial Vehicles in the Company name 24-7, explaining they could get a call in the middle of the night, it is the nature of the business.

The vans are only used for transportation, parked in the lot. On Saturday & Sunday we do not work, the vans remained parked. We are asking for a variance to keep the two Commercial Vehicles on the lot. You can keep two, but one has to be garaged is his understanding.

Mr. Komarica continues to note they have exhausted every option in order not to have to come to the Board. The van does not fit in the garage. We extended the driveway with permission and a permit. He refers to the survey and pictures & notes one van would not be seen from the street.

One of the vans will block the other van. There is a fence there, so it will not be seen. He would like to also note, it will only be a temporary issue. His father is due for retirement in the next 5-6 years the van goes back to the company...

Mr. Newman asked how they came to be aware of this Ordinance and end up here.

Mr. Komarica explains they moved to Berkshire Road around 10months ago and parked the vans in the existing driveway. They did not have enough room before enlarging the driveway, and his van was partly on the grass. He came home from work and noticed 3 violations on the van. Apparently, one of the neighbors stated they were running a business out of the garage. There is no business being run from the garage, it is a single

car garage. That violation was waived after speaking with the Zoning Officer, Ann Peck who has been very helpful throughout this.

Mr. Komarica continues to state the second violation was for parking on the grass. He went and explained the situation and the violation was removed temporality because the permit was submitted for the extension of the driveway.

The 3rd violation was two commercial vehicles on the lot...and we are here. The vehicle does not fit into the single car garage.

Discussion...

Mr. Newman asks Mr. Komarica if the Board were to put a “Condition” on an approval, he would seem to be agreeable to this as long as he could park his vehicles.

Mr. Komarica agrees.

Mr. Newman defers his question to Mr. Rosenberg (Board Attorney) if it would be doable or complicated if we did approve something, would it go beyond the two existing vehicles? Could it be limited to just these two?

Discussion regarding the “Use” variance...

Mr. Rosenberg explains & notes the applicant has not really given testimony of the nature of the vehicles, no photographs, etc. speaks to the Chairman & notes to the extent you are considering the application, you are acting upon two vehicles of a certain size & type that does limit a type of vehicle. If you are inclined to act upon the application favorably, you will be approving the storage of two commercial vehicles in excess of 3quarter ton....

Mr. Rosenberg continues; I think it is important to have enough information to be able to craft, if in fact the Board is so inclined to grant an approval to limit it by these vehicles.

Discussion continues....

Vehicle weight is questioned, along with make & Model.

Mr. Komarica testifies the vehicles are 3quarter ton, 6000 pounds, 2007 & 2008 Chevrolet Express. It is a no-window van.

Discussion continues...

Mr. Rosenberg notes he would be happy to prepare a Resolution if the Board so inclines to limit it to these particular individuals and this particular company.

Deed Restriction is discussed.

Discussion continues....

Mr. Newman interjects and states to the Applicant, he feels they will need to bring them back because he feels they will not be able to come to a conclusion tonight.

Mr. Newman asks Mr. Rosenberg if it would be fair to poll the Board as to their inclination to come to a conclusion to grant the variance relief.

Mr. Rosenberg notes it is a “Use Variance” the applicant has the burden to meet for a use variance. His opinion is noted, whether there is enough information before you with respect to this...the Board can certainly decide to proceed to a vote if they wish to...

Discussion continues...

Mr. Newman explains to Mr. Komarica the decision the Board has to make extends far beyond him & his Father and their particular needs. It runs with the Land. The Board is not only concerned with what they want to do, but also what it may set up for a future use on the property...

Mr. Newman continues; he feels the Board members, including himself may be able to address some type of variance relief if they have the specifics about what you want to do in order to make our decision & probably put the adequate restrictions in the relief we grant.

Mr. Newman explains he will need to bring more information and this is the reason we will need to carry the application. We do not have enough information to act. We will need photographs of the vehicles and as many specifics as you can give us.

Discussion continues...

Mr. Lowenstein (Board Member) notes he does not agree with having the applicant return. He has testified to the weight, make & model and if this is the sole reason for him coming back, how specific do we want to get?

Discussion continues...

Mr. Newman speaks to the issue and notes, Council feels in order to detail some of the things that need to be detailed in the Resolution, we don't have enough information.

Mr. Rosenberg (Board Attorney) offers the suggestion to poll the Board members to see if they are comfortable with what information they have heard.

Mr. Newman clarifies what they are voting on:

*Vote as to whether or not the Board feels there is adequate enough information to act on this tonight.

VOTE: Mr. Lowenstein, Yes. He feels he has received enough information, explains..

Mr. Karas: Yes. He feels he has enough information, explains.

Mr. Seibel, No. He would like more information, explains.

Mr. Dunay, No. He would like more information, explains.

Mr. Puzio, No. He would like more information, explains.

Mr. Meer, No. He would like more information, explains.

Mr. Newman, No. Everyone would be better served with more information.

Mr. Rosenberg explains what is required for a D-1 Variance to the applicant. Positive & Negative criteria needs to be satisfied....explains.

Applicant clarifies what exactly he would need so there will be no issues when he returns.

Requirements are clarified with the applicant.

Discussion continues...

Ms. Peck (Assistant Zoning Officer) reads the Ordinance pertaining to this application for Board discussion.

Application carried to the meeting of October 22, 2012.

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

Mr. Newman closes this portion.

Order of Business:

Vouchers:

1. Winne Banta Hetherington Basralian & Kahn, Legal Services rendered for the Zoning Board of Adjustments for Center City Transport in the amount of \$315.00 for the September 19, 2012 meeting.
2. Winne, Banta, Hetherington Basralian & Kahn for legal services rendered for the Zoning Board of Adjustment for the month of September in the amount of \$816.66

Mr. Puzio made a motion to accept these vouchers and Mr. Lowenstein seconded the motion.

VOTE: All Present – **AYE**

Minutes

Mr. Lowenstein made a motion to approve the minutes for the May 21, 2012 meeting and Mr. Seibel seconded the motion.

VOTE: All Present - **AYE**

Resolutions:

1. Application #2011-011, Center City Transport, 23-00 Route 208, Block 5902, Lot 9, Zone B-1– Proposed overnight parking-Denied.

Mr. Lowenstein made a motion to accept this resolution and Mr. Seibel seconded the motion.

VOTE: All Present – **AYE.**

2. Application #2012-026, Daruysz Majcher, 0-28 Plaza Road, Block 3223.01, Lot 1, Zone R-1-3– Proposed 6ft. fence- Approved

Mr. Lowenstein made a motion to accept this resolution and Mr. Meer seconded the motion.

VOTE: All Present – **AYE.**

3. Application #2012-028, Joseph Maslo & Barbara Rasmussen, 34-07 Ryan Road, Block 2204, Lot 7, Zone R-1-3– Proposed 21' Above-ground pool- Approved.

Mr. Meer made a motion to accept this resolution and Mr. Puzio seconded the motion.

VOTE: All Present – **AYE.**

4. Application #2012-030, Luciano DiGiacomo, 4-13 30th Street, Block 3404, Lot 7, Zone R-1-3– Proposed 18x12 Above-ground pool- Approved.

Mr. Puzio made a motion to accept this resolution and Mr. Meer seconded the motion.

VOTE: All Present – **AYE.**

Minutes

Mr. Lowenstein made a motion to approve the minutes for the **May 21, 2012** meeting and Mr. Seibel seconded the motion.

VOTE: All Present - **AYE**

Adjourn

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

TIME: 10:00P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk