

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting Minutes  
Of DECEMBER 17, 2012**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on December 17, 2012

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

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

Absent: None (Mr. Dunay arrived 7:24)

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.

**Residential Carried:**

1. Application#12-044, Regina & Gene Tsimerman  
39-11 Tierney Place, Block 1611, Lot 9, Zone R-1-2  
Proposed addition would maintain the existing front yard setback of 21.9%  
Where 30' is required as per Section 125-12 Schedule of area yard & building requirements.

Mr. Newman swears in: Gene & Regina Tsimerman (Applicants)  
39-11 Tierney Place  
Fair Lawn, N.J.

Bogdan Szacillo (Architect)  
199 Belmont Ave  
Madison, N.J.

Mr. Newman certifies Mr. Szacillo as an Expert Witness with no objections from the Board.

Mr. Tsimerman begins his testimony stating this time around, they came more prepared. Refers to pictures submitted with the application. Marked A-1, A-2 & A-3. Discusses the designs of the homes in surrounding areas that are very similar to what they are proposing. Refers to concerns over a 100 year old Oak Tree which came into question the prior month which is located in the far corner of their property and if harm would come to the roots because of the construction, eventually killing the tree. They decided to hire an independent Tree Specialist. Report is attached...no construction will interfere or have any impact on the tree.

This Report is marked as: A-4

Discussion continues...

Mr. Tsimerman states the only variance which is required is because they are a corner property and considered to have two front yards. One side does will not have a 30ft. front yard setback from the property line.

Mr. Newman notes one of the larger issues from the previous meeting was whether or not the basement had to be added in the FAR calculations based on its height above grade. We weren't able to clearly understand this...it was not marked on the plans in any clear way.

Mr. Tsimerman states they have submitted the new plans as requested and points to the area of which all information has been submitted in writing.

Mr. Szacillo (Architect) speaks to the plan, referring to the South elevation...explaining with the basement has an exposed foundation...Discusses calculations.

Mr. Newman asks Mr. Szacillo if he is comfortable in his professional opinion, that no slight error in construction could result in the height of this building being over 30ft. as it is proposed at 29.10 ½ ...which would result in requiring another variance. He is a little uncomfortable with this...

Mr. Newman swears in: Ms. Ann Peck, Assistant Zoning Officer to Fair Lawn

Ms. Peck testifies the Building Department now require verification on the height ...if it goes over the requirement, they have to lower it to the requirement or come back before the Board.

Discussion.....

Mr. Newman asks if there is any reasonable way to plan for a slightly lower total height, thereby giving you wiggle room in the construction process.

Discussion continues...

Mr. Szacillo (Architect) understands the concern.

Mr. Newman states the Board would use the height listed on the plan but notes to keep it in mind in the Construction process, it is really close...

Mr. Rosenberg (Board Attorney) interjects and states since the Board is being asked to grant a variance, he certainly has the ability, if the Applicant is willing to amend the plan to reduce the overall roof height by several inches...if you would like to make this a condition of the application, with the granting of the variance...this way there is really no debate.

Discussion with the Architect...

Architect is willing to amend the height to 29'6" for the total height and make it a condition of approval this evening.

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

Mr. Newman opens the application to Residents 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 for questions or comments.

Mr. Waldemar Wysocai steps forward with a question.

Mr. Newman notes he was sworn in last month regarding the same application.

Mr. Wysocai has some doubt in reading the definition of the Zoning Ordinance...explains.

Discussion...

Ms. Peck explains to the Board Mr. Wysocai is asking for the Board to interpret the decision of the Zoning Officer.

Ms. Peck explains to Mr. Wysocai the only way this could be done is to make an application as far as interpretation.

Mr. Wysocai understands.

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

Mr. Newman closes this portion.

Mr. Sacchinelli (Board Member) asks the Architect in reference to the new roof line, the downspouts will be put in the exact same spot so there will be no water issues.

Mr. Szacillo (Architect) replies yes.

Mr. Newman states if there are no further questions from the Board, he will ask for a motion.

Mr. Meer makes a motion to approve the application with the condition of a maximum building height of 29' .5ft.

Mr. Puzio makes second motion.

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

**Motion carries.**

**APPLICATION APPROVED.**

### **Order of Business:**

A discussion regarding RFQ's takes place.

Mr. Newman reads the Resolution to adopt as written.

Discussion ...

Mr. Newman asks for 2 votes as suggested by Mr. Karas.

Mr. Newman asks for a motion on the Resolution as written.

Mr. Puzio makes motion to adopt Resolution as written

Mr. Blecher seconds the motion.

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

Mr. Lowenstein makes a motion for any Professional applying to the Board to be hired by the Board and serve in a Professional capacity in addition to submitting the RFQ's, make themselves available to be present at the Re-Organization meeting and failure to do so shall be considered to be a withdrawal of their application.

Ms. Peck suggests it be the Applicant and/or representative of the Company.

Board Members agree to the suggestion...

Discussion continues....

Mr. Newman asks if there is no further discussion, motion is still on table and he will need a second.

Mr. Sacchinelli seconds the motion.

**VOTE:** Mr. Blecher, Mr. Sacchinelli, Mr. Lowenstein, Mr. Puzio, Mr. Meer, **YES.**

Mr. Karas, Mr. Newman, **NO.**

**Motion carries.**

**Resolution is amended.  
Amend to include the motion.**

Annual Report is discussed....

**Resolutions:**

1. Application #2012-041, Sebastian Lentini, 37-01 Broadway, Block 2320, Lots 10, 11 & 12, Zone – B2 & R-1-3, Amended Site Plan- **Approved.**

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

**VOTE:** All Present – **AYE.**

2. Application #2012-036, Mladen & Frankia Komarica, 28-12 Berkshire Road, Block 3209.01, Lot 1, Zone R-1-3–Overnight Parking of two Commercial Vehicles-D-1 Use Variance-**Denied**

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

**VOTE:** All Present – **AYE.**

3. Application #2012-042, Stonewall Properties, LLC, 7-20 Forest Street, Block 5830, Lot 6 & 7, Zone R-1-3– Proposed New One-Family-**Approved.**

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

**VOTE:** All Present – **AYE.**

4. Application #2012-043, Kenneth Montello, Jr., 12-20 Fair Lawn Ave, Block 4603, Lot 39, Zone R-1-3–Proposed 6ft. Fence - **Approved.**

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

**VOTE:** All Present – **AYE.**

**Vouchers:**

1. Winnie,Banta, Hetherington, Basralian & Kahn, P.C. in the amount of \$ 816.66 for Legal Services to the December 17, 2012 Zoning Board of Adjustments Meeting.

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

**VOTE:** All Present – **AYE.**

2. Winnie, Banta, Hetherington, Basralian & Kahn, P.C. in the amount of \$787.50 for Legal services regarding the Lentini Matter.

Mr. Puzio made a motion to accept the voucher and Mr. Blecher seconded the motion.

**VOTE:** All Present – **AYE.**

**Minutes:** August 20, 2012 & September 24, 2012

1. Mr. Lowenstein made a motion to approve the minutes for the August 20, 2012 meeting and Mr. Seibel seconded the motion.
2. Mr. Lowenstein made a motion to approve the minutes for the September 24, 2012 meeting and Mr. Meer seconded the motion.

**VOTE:** All Present – **AYE**

Mr. Newman sadly reads the letter of Resignation from Board Member Sy Karas, notes without hesitation he has added a great deal to deliberations on this Board and speaks for everyone when he says he will be greatly missed.

**Adjourn**

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

**TIME: 8:20 P.M.**

**VOTE:** All Present - **AYE.**

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk