

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of October 28, 2013**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on October 28, 2013

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. Dunay, Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster, Mr. Meer & Mr. Newman

Absent: Mr. Blecher, Mr. Lowenstein, Mr. Gil & Mr. Puzio

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

Board Professionals in Attendance:

Mark Kataryniak, (Traffic Engineer) previously approved by Zoning Board to continue as the Board Traffic Engineer for the Zap Lube Application & Peter Van Den Kooy (Board Planner)

Mr. Newman opens the night's meeting & states he will move out of Application order tonight & calls Application #013-25, Ralph Groth of Residential Carried first.

Residential Carried:

1. Application # 2013-25, Ralph Groth,
0-80 Elden Place, Block 2219, Lot 14, Zone R-1-3
Proposed above ground pool would increase the impervious coverage from 35% to 38.80% where 35% is permitted as per Section 125-12 schedule of area yard and building requirements.

Mr. Newman swears in: Mr. & Mrs. Ralph Groth
0-80 Elden Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman asks the Applicant to please begin to explain what it is they would like to do.

Mr. Groth begins his testimony and explains they would like to install an above-ground pool which would increase the impervious coverage, etc...side yard setbacks..

Mr. Newman questions Ms. Peck (Assistant Zoning Officer) regarding the side yard setbacks...stating it is not noted on the agenda or publication, noting the neighbors are not aware of the side yard setback variance...

Ms. Peck notes it's a C variance so the Applicants can amend it tonight.

Mr. Rosenberg (Board Attorney) concurs with Ms. Peck and states to the Chairman, Mr. Newman, this is the position the Board has taken in the past, so long as the public knows it's a pool application. Only with a D variance, it would be required, but not with a C-variance...

Ms. Peck explains the side yard has a 10ft. setback requirement and the applicants are asking for 7'.

Mr. Newman questions the reason why they would need a smaller setback.

Mr. Groth explains it would give a 3ft. landing from their deck and we have wooded areas behind us so it would not impede on any of the neighbors privacy.

Discussion...

Mr. Newman questions safety issues with the pool being 3ft. from the deck....

Mr. Groth explains 3ft. from the landing at the bottom of his steps, ground level.

Mr. Groth notes his neighbors to his side and his rear are aware of this and have no issues with this.

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

Mr. Sacchinelli (Board Member) questions concerns with (inaudible)...

Ms. Peck speaks with Mr. Sacchinelli regarding the subject and alleviates the concern.

Mr. Dunay (Board Member) questions the square footage of the lot.

Discussion...5998sf is determined

Mr. Newman notes the lot is undersized for the zone. The requirement is 6500sf.

Discussion continues....

Mr. Groth states he is on a cul-d-sac and it is an irregular lot 50x95...

Discussion continues....

Mr. Newman states essentially with this irregular lot there is nowhere else to put the pool.

Mr. Dunay does calculations and does state if they had a conforming lot, the impervious coverage would be 35.8%...

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

Mr. Newman opens 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 for questions or comments, seeing none.

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

Mr. Meer makes a motion to approve the application with the amendment of a side yard variance of 7' where 10ft. is required.

Mr. Sina seconds the motion.

VOTE: Mr. Dunay, Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster,
Mr. Meer & Mr. Newman, **YES.**

Motion carries.

APPLICATION APPROVED.

Residential New Business:

1. Application # 2013-029, Nicholas and Michele DiGenio,
39-38 Sycamore Drive, Block 1110, Lot 21, Zone R-1-3
Proposed patio would increase the impervious coverage from 30.11% to 37.40%
and the proposed 18' above ground pool would increase the impervious coverage
to 41.90% where 35% is permitted as per Section 125-12 Schedule of area yard
and building requirements.

Mr. Newman swears in: Nicholas & Michele DiGenio
39-38 Sycamore Drive
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman reminds the applicants that every application stands on its own merit. No two applications are the same and we should not draw conclusions or similarities from what just took place on the previous application.

Mr. Newman asks the applicant to please explain why they are here this evening.

Ms. DiGenio begins her testimony by stating they would like to get approval on a patio and a pool in the backyard. Unfortunately, the patio has already been installed due to the fact when we bought the house 6 yrs ago, we asked the Contractor if we need a permit, he explained because they were pavers, we did not need a permit. We took his word and it turned out not to be true and now we are over the coverage for the installation of the pool.

Mr. Newman clarifies; it is only the impervious coverage that brings you here...

Lot size is discussed. ..

Ms. DiGenio states it is approximately 51X124....

Mr. Newman notes the lot is undersized for the zone...questions if this is an above ground pool.

Ms. DiGenio states yes, an above ground pool.

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

Mr. Dunay (Board Member) notes he was doing his math as he did the last application and notes it seems the proposed impervious coverage is 41.9%....explains...
On a 6500sf conforming lot, it would be 38.2% impervious...

Mr. Newman thanks Mr. Dunay.

Mr. Newman explains to the Applicants that even if they were to take into consideration the undersized nature of the lot, you are still a fair amount over impervious coverage...are there any plans to remove the patio or any other currently existing impervious coverage?

Ms. DiGenio states she would hope not, but they did actually have impervious coverage in the front of the house which they did take away and put plantings and landscaping

there. There was a porch and a large sidewalk up front and we cleared it all out and replaced it with the landscaping which did bring the impervious coverage down.

Discussion.....

Mr. Seibel clarifies what they have are pavers and comments they aren't totally pervious and asks the applicants if there are any water issues with neighbors?

Ms. DiGenio testifies she gets nothing at all, she does not have any neighbors behind them, Brookdale Park is behind them, so everything runs into the park. There has never even been a puddle.

No issues whatsoever in the basement, nothing...

Discussion continues.....

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

Mr. Newman opens 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 for questions or comments, seeing none.

Mr. Newman asks if there is a smaller pool then the one proposed...

Mr. & Mrs. DiGenio both testify there are two others types of pools that are smaller.

Discussion....

Ms Peck (Assistant Zoning Officer) states it wouldn't significantly change the numbers.

Mr. Newman asks for a motion.

Mr. Dunay makes a motion to approve the application.

Mr. Seibel seconds the motion.

VOTE: Mr. Dunay, Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster,
Mr. Meer & Mr. Newman, **YES.**

Motion carries.

APPLICATION APPROVED.

Mr. Newman calls for a 1 minute Recess.

Mr. Newman calls the meeting back to order.

Roll Call: Mr. Dunay, Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster,
Mr. Meer & Mr. Newman, **Present.**

Residential Business Carried:

1. Application #13-018, Nicholas and Sarah Trawinski
3-33 Lyncrest Avenue, Block 4315, Lots 33-36, Zone R-1-3
A 4' fence in the front yard setback where only 3' is permitted as per Section 125-38.A. Proposed new driveway would create two curb cuts where only one is permitted as per Section 125-48.C.(7) Proposed increase the impervious coverage to 40.50% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Stuart Liebman (Applicant's Attorney) steps forward.

Mr. Dunay (Board Member) recuses himself from this application & the Zap Lube Application.

Mr. Sacchinelli (Board Member) recuses himself from this application only.

Mr. Seibel (Board Member) recuses himself from this application only.

Mr. Bruce Rosenberg (Board Attorney) asks Ms. Peck (Assistant Zoning Officer) to please qualify Mr. Newman with respect he was not at the last hearing regarding this application.

Ms. Peck testifies Mr. Newman has signed the Certification stating he has read the Transcripts.

Mr. Rosenberg notes to Mr. Liebman (Applicant's Attorney) he has four (4) qualified Board Members sitting this evening on the application.

So noted by Mr. Liebman...

Mr. Liebman begins his testimony regarding the application as they did last month, they would like to present and if for some reason it becomes necessary to utilize the transcripts

and not proceed this evening, they will address it at the end but he is hopeful this is the last time he would have to leave Board Members (inaudible)...

Mr. Liebman so notes the Board asked to provide notice once again, verifying confirmation of the notice....so noted.

Mr. Liebman states they are back once again with the variance for the property at 3-33 Lyncrest Avenue....the application before you this evening is for an impervious coverage variance where 35% is permitted and 40.9% is proposed. It is in connection with an addition of a garage and a driveway to be added to Lyncrest Avenue...

Mr. Liebman reviews the application and states when it first came before the Board there were several variances' that were requested, including one for a 2nd curb cut, a 2nd driveway, a setback of a fence location. We also were adding a Shed.

Mr. Liebman continues; they came back on September 30th with a revised plan after one meeting where they had good dialogue from the Board and some neighbors. They made modifications, eliminated the existing curb cut on Willow Street. Eliminated the entire area of pavement that was behind the curb cut driveway on the Willow Street side leading up to the fenced area where the pool exists...we have moved the fence relocation to the 25ft. setback instead of 22.4ft where it needed a variance.

The Shed that was proposed has been removed...as a result of the good feedback, upon further study, they determined , what would be a better plan was to add a garage and make the curb cut on the Lyncrest side.

Mr. Liebman walks the Board through the details of the last hearing referring to the Garage itself...the structure, the Floor Area, the Building coverage, the setbacks, etc. all conform and do not require variance relief. They do comprise overall impervious coverage that is part of the variance request.

Mr. Liebman continues...referring to the request for an exhibit that shows what the addition would look like. There was a discussion as to whether it would be a one story or a two story, we have revised the plan and provided the Board with some additional drawings, 3 different drawings showing the elevations for the structure.

Mr. Liebman marks these Exhibits as A-4

Proposed 2story garage addition –Consisting of 3 sheets
West elevation
South elevation
North elevations

They have also submitted a revised Site Plan with minor modifications which he marks as Exhibit A-5 (revised October 18, 2013) as submitted to the Board on this date.

This plan shows the proposed buffer along the Southerly property line in the area of the garage addition which we had discussed at the last hearing and also adds to the Zoning table the FAR information to confirm the FAR is below what is the maximum permitted.

They still request only one variance and this is for the impervious coverage. At the introduction we did provide notice as directed by the Board.

Mr. Liebman calls his witness, Bruce Rigg, reminding him he is still under Oath and asks him to please describe & share the changes to the plans and to add some additional information with the Board.

Mr. Rigg begins his testimony and notes to the Board, the plan the Board has and the Exhibit he has mounted is the revised Site Plan dated October 18, 2013. There are a few changes since the last one...explains. The Garage is showing a two story addition. His client wanted to be sure the Board would see this at the largest size he could propose, because it shows it meets the allowed coverage for the FAR, although thinking of making it smaller. There are no variances required for the addition of the garage.

Mr. Rigg continues...they added the landscaping to the end of the new fence and the existing planting are pretty much the length of the house to the South.

The one variance is still showing for the Lot coverage, they are reducing the existing impervious by 13square ft. so essentially keeping it as it which is the variance for 40.9% vs the 35% required.

Testimony continues....

Mr. Rigg describes the 3-sheet Exhibit by pages... West Elevations, explaining the roof elevations will match the existing building, so there will be no increase in the height of the building...there will be different roof patterns so that it will not be straight across from the front...

South Elevation is described. The side of the garage on the property line...explains they will be using the same materials as existing and following the same roofline..

North Elevations: looking from Willow, essentially the garage is the area to the right which is the closest to Lyncrest Avenue and the remainder of the existing building...various roof patterns but they will all match the height. My client wanted to be sure there would be no changes to the height as part of the proposal before the Board.

Mr. Rigg finishes his testimony by stating these are pretty much the changes that took place since our last hearing. The main issue was to bring in a plan, so you could see what the exterior of the building will look like when constructed.

Mr. Liebman asks Mr. Rigg to please explain the questions at the last hearing in regard to a Tree removal.

Mr. Rigg testifies that one tree inside the area of the garage, it is fairly close to the house, this tree will be removed and the additional tree- refers to the Exhibit to show location... It is next to the neighbor's house to the South, in front of the actual garage location. He feels it does not necessarily have to come down, not sure of the condition but they will not remove it, it will be trimmed...one of the limbs will be removed because it reaches out over the house...there are no other trees in the area.

Testimony continues.....

Mr. Rigg does note, after questioning by Mr. Liebman, that he had received an e-mail stating there is a disease in some of the trees, so they would be coming down more than likely anyway but the one where the garage is being proposed would be taken down regardless whether this application came before the Board.

Testimony continues...

Mr. Liebman has no further questions for Mr. Rigg.

Mr. Rigg has two sets of photos which show the two trees...he passes them onto Board Members for review.

Pictures marked as Exhibit A-6 & A-7- two separate Photographs taken by Mr. Bruce Rigg showing two different trees on the West end of the property- Lyncrest Avenue side of the proposed addition. Pictures were taken the beginning of October, 2013.

A-6- Tree closest to the Twawinski Residence

A-7-Tree closest to Neighbor

Discussion....

Mr. Lancaster (Board Member) questions the proposed garage, asking if at the last meeting it was mentioned that this was going to be a one story.

Mr. Rigg explains. No. His client talked back & forth regarding this and we decided to provide the Board with the largest possible addition. He may still make it a one story garage, but we wanted to show you the maximum is still under the FAR.

Mr. Liebman explains what was discussed at the last meeting regarding this...

Mr. Newman questions the second floor and what exactly is proposed in this space if there were a second floor.

Mr. Liebman states no. There has been no further design to it other than living space...whether or not it would be two rooms or one...etc..

Mr. Newman asks Mr. Liebman if there would be any objection to the Board putting a stipulation there could never be a kitchen or a separate living quarters above there.

Mr. Liebman sees the concern and has no issues with this stipulation.

Mr. Newman asks if there are any other questions.

Mr. Sina (Board Member) wants to note at the last meeting as well, Mr. Puzio and himself echo the reason for seeing the blue print on the garage was because of this very reason.

Discussion....

Mr. Newman states if we make this restriction as part of the approval, there would be no questions about this...

Mr. Newman asks if there are any other questions for residents living within 200ft. for Mr. Riggs only.

Mr. Scott Epstein steps forward.
244 Market Street
Elmwood Park, N.J.

Mr. Epstein is here to speak on behalf of Ms. Joddy Kaye who lives on Lyncrest Avenue.

Mr. Newman reminds Mr. Epstein he has been previously sworn in and is still under Oath.

Mr. Epstein begins his questioning of Mr. Rigg. Refers to the property itself on the Willow side, clarifying the elimination of any driveway & curb cut and all the area that is currently tarmac/asphalt will now be grass?

Mr. Rigg clarifies yes, grass or landscaping.

Mr. Epstein clarifies the fence will be even with the property facing Willow.

Mr. Rigg notes it will be parallel to Willow, it will be the 25ft. minimum, so it will not be in line with the house...

Questioning continues...

Mr. Epstein questions the Hot Tub in the bottom right corner of the South exposure there is a Hot Tub. What is the normal setback for a Hot Tub?

Discussion of setbacks...

Ms. Peck (Assistant Zoning Officer) states there is a discrepancy. The Zoning Department has taken the position that Hot Tubs need to meet the same requirements as a pool or look at it as an accessory which is 4ft....

Discussion...

Ms. Peck states based on 125-37- reads from the Ordinance referencing swimming pools, tennis courts and similar recreation facilities....being over 3ft in height, more than 10ft. in length, etc...must follow the same requirements & setbacks as pools (hot tubs can be considered similar recreation)

Ms. Peck notes their (the applicant's) position is it is an accessory...meeting the 4ft. side yard setback...

Mr. Rigg states it is an accessory, it is fenced within the fenced rear yard and we meet the criteria of the exception. They are not over 3ft in height & less than 10ft. in length so they do not have to meet the same setbacks, we meet what an accessory structure states...

Ms. Peck clarifies where Mr. Rigg is quoting from...

Mr. Rigg testifies he is reading 125-37-except for portable swimming pools, less than 3ft. in height and less than 10ft. in length...

Discussion continues.....

Ms. Peck notes there is a bit of a discrepancy in the interpretation...

Discussion...

Ms. Peck states it is the interpretation at this point or a variance...concurs to Mr. Liebman (Applicant's Attorney)

Mr. Liebman testifies they have shown this on the plan from the beginning...the zoning schedule, its listed as an accessory structure...

Mr. Liebman refers to Ordinance 125-8 (Definition of a private swimming pool)...hopes they do not have to go through the exercise of a formal challenge, noting at this point there is no challenge because there is no interpretation..

Mr. Epstein (resident representing Ms. Joddy Kaye) continues with his questioning of Mr. Rigg.

Questions the reason why the garage now is being proposed at this location. Did the house previously have a garage?

Mr. Rigg will not assume and states he does not know.

Mr. Epstein believes there was a garage on Willow where the driveway was located.

Mr. Newman (Chairman) asks if there is a question or is this a statement?

Mr. Epstein states it is a statement.

Mr. Newman wants Mr. Epstein to stick to questions...

Mr. Epstein explains the reason for the statement was the question; if there was a garage on Willow and it is no longer there, why does a garage need to be put on Lyncrest. Where was the hardship created in needing the garage on Lyncrest if they previously had a garage on Willow?

Mr. Newman is not sure of the question but does clarify, there is no hardship required to erect a garage.

Mr. Epstein so notes...

Mr. Rigg answers Mr. Epstein's question and states there is no variance requested to put the garage up. It is permitted by use, it meets the setbacks and meets all the criteria..

Mr. Epstein has no further questions for Mr. Rigg.

Mr. Newman opens the witness to questions or comments from Residents living within 200ft. of the Applicants.

Ms. Susan Ortega
3-27 Lyncrest Ave
Fair Lawn, N.J.

Mr. Newman reminds Ms. Ortega she was previously sworn and is still under Oath.

Ms. Ortega understands.

Ms. Ortega begins her testimony by stating she had brought up at last month's meeting her concerns about the tree and she appreciates it being addressed. She does not relate to looking at a plan on a piece of paper, she looks from her home. She took pictures from

her home and refers to the testimony at last month's meeting the fence is literally outside her window of her home.

Mr. Newman stops Ms. Ortega and states she could have an opportunity to say whatever it is she would like to say but right now it is just questions for Mr. Riggs.

Ms. Ortega apologizes & misunderstood...but she does have a question regarding the fence being moved. The fence is on her property, she knows for a fact because it has been documented with her survey. It does interfere with the position of the Hot Tub then, so her question is when the fence is moved off her property, would this impact the distance from the requirement?

Mr. Newman clarifies it is the same distance from the property line no matter where the fence is...

Mr. Rigg does acknowledge the fence is not on the property line and we stated this. It will be moved.

Mr. Newman opens for any questions for the witness for Residents within 200ft. Seeing none,

Mr. Newman closes this portion.

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

Mr. Newman closes this portion.

Mr. Newman asks Mr. Liebman asks if there is anything else in regards to testimony.

Mr. Liebman states no other testimony, just closing remarks...

Mr. Newman asks if any Board Member has questions or comments before opening up for Public comment...

Mr. Lancaster (Board Member) still has concerns regarding the impervious coverage percentage...explains.

Mr. Newman asks Mr. Liebman if his client has considered any other alternative to reducing the impervious coverage from what is presented here.

Mr. Liebman testifies throughout the course of the application, they have heard the concerns and have addressed the elimination of all the paved areas, curb cuts, etc..

They have considered the possibility of shaving down some of the existing patio. Nothing will get it to the 35% ...without getting into the pool itself...yes; they did consider it but do believe this plan works well and with very minimal impact.

Discussion continues....

Mr. Liebman points out the only other option is to eliminate all the patio around the pool making it an impractical pool but still put up the garage & be what is the allowable coverage...he does understand the dynamics the Board goes through, analyzing the undersized lots as you did on the prior two applications...

Mr. Liebman remarks on a lot like this, there is more room to work with and less impact. You have less to work with and more impact when working with a smaller lot...

Mr. Newman counters Mr. Liebman statement by stating when the Board looks at those things, they are not necessarily looking at impact as much as they look at practicality when the Ordinance were written...lots were sized...etc.

Discussion continues...

Mr. Newman asks if there are no further comments or questions from the Board, he will now open it up to Residents living within 200ft. of the applicant for comments.

Ms. Ortega steps forward (Neighbor on Lyncrest) she states she took pictures from her window because as she said earlier, everyone is looking at a white piece of paper that shows the home, which is a lovely home...but her house, for whatever reason...is less than 5ft from her property line and less than 10ft on the other side of the property...she did purchase it and has lived in it for 27 yrs but suggests looking at the survey so the Board can understand her concerns.

Ms. Ortega continues...although they are talking about impervious coverage and it is well over on a property that has two lots which is a very large piece of property, she would like for them to look at pictures of her joined driveway. She does not understand why it was done like this...we both had previous owners of our home.

Ms. Ortega explains her driveway looks like this on any given day, points out the six cars in her driveway and states her daughter is away at college, so she is one shy. She is willing to submit these pictures if you want.

Mr. Rosenberg (Board Attorney) enters into Objector Exhibit.

Objector 1-Set of Photographs...O2-Series of 4 Photographs
03-Survey of 3-27 Lyncrest Avenue

Discussion....

Mr. Liebman clarifies addresses on Lyncrest for the Pictures.

Ms. Ortega continues to explain what she is trying to point out is that it is a very crowded area and to put another driveway to cover even more of the green area, so that the other side would be less than 10ft from her property line...

Ms. Ortega continues...she took the picture literally through the bedroom window, she could lean out and touch the fence, and the shrubs are there. It is less than 5ft away.

Ms. Ortega asks the Board to consider the change to the neighborhood and how this would look. There is a driveway on the other side. Yes, they have to park the cars the same way she does. Perhaps that is a horrible hardship to them; she lives it every day and does not have an option to put a driveway on the front lawn. She does not think it meets the criteria for a true hardship; there is more than enough property there with a big enough driveway...

Discussion continues...

Mr. Liebman (Applicant's Attorney) points out there are no measurement noted on the Objector's survey depicting the distance between homes...

Discussion...

Mr. Newman asks Mr. Liebman if he has an objection to Ms. Ortega submitting this.

No Objection from Mr. Liebman.

Mr. Newman states while the Board is looking at the pictures; is there anyone within 200ft with questions or comments...

Mr. Epstein steps forward.

Mr. Epstein refers to the drawing and asks how does the Trawinsk's plan to get from the driveway to the house. There does not seem to be a walkway.

Mr. Rigg explains his clients and him briefly spoke of it. There was talk of putting a door from the garage into the home. There is none depicted, but there would be one before the project was finished, so they could gain access directly into the house or go through the front door.

Discussion...

Mr. Rigg testifies if they were going to walk from the garage to the house, they would probably remove the sidewalk that goes out into the street and redirect it to the garage so

there would be less impervious, but we did not get that far with it. The plans were not finished, but there are more options...regardless, it will not make any difference to the impervious coverage. In actuality, it may reduce the impervious if we came from the front door to the driveway instead of to the street...point being there will be no increase to the impervious.

Mr. Epstein understands.

Mr. Rosenberg (Board Attorney) does note for the record, if this was the case, obviously they would have to reapply and Ms. Peck (Assistant Zoning Officer) would have to look at the plan and calculate whether or not the impervious would be increase.

Mr. Rigg so notes if his client were to propose any additional impervious, he would have to come before the Board again, but is pretty sure his client will not be adding any additional impervious...

Mr. Epstein continues...one other concern of his looking at the drawing is; it doesn't obviously give elevation, but he can guess that a two story structure with windows on the bottom and top is a very tall structure. Refers to the evergreens and asks if there is a height requirement or can they make a suggestion for a slightly taller evergreen type to reduce the scale of the structure from the South side of Lyncrest properties.

Discussion...

Mr. Newman does have a question regarding this structure, directs his questioning to Mr. Rigg in regards to obstruction of air and light from the garage, considering the close proximity to the neighboring structure of about 15ft. Are there any issues?

Mr. Rigg testifies being a southern exposure, his clients would be the one to have air & light problems because of the adjoining house. Explains...

Mr. Rigg states he does not feel there would be any issues shading the neighbor's property....

Mr. Epstein has no further questions.

Mr. Newman again opens for questions or comments from residents living within 200ft. seeing none,

Mr. Newman closes this portion.

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

Mr. Newman asks if any members of the Board have any questions or comments. Seeing none,

Mr. Newman asks Mr. Liebman for a closing statement.

Mr. Liebman reviews the application...unlike the typical application the Board usually sees, this plan has evolved. They took the concerns of the Board, went back to the drawing board and came up with a plan they feel is really a suitable plan, an attractive plan. While it addresses and fixes up a lot of existing conditions and difficulties they had on this property...explains.

Reviews new proposal, notes all the positive criteria...attractive appealing design...etc. They are attempting to address the existing on the property. Through the testimony, we have presented an alternative that will address community concerns and have no adverse impact on the surrounding properties. No drainage concerns, etc. They have added planting to help mitigate some of the impact of this proposed addition. We have agreed to the removal or relocation of the existing fence...the shed was removed that was originally shown...

Mr. Liebman feels this is a much better plan and one that is consistent with this kind of design in the zone and asks the Board to act favorably on the application.

Mr. Liebman also notes the Ordinances have not changed in the Borough as of yet, but this Board should take into consideration its own suggestions and recommendations in its Annual Reporting to the Planning Board and Governing Body of areas that may need revisions and zoning in the Borough of Fair Lawn including this particular type of situation..Where there is a pool, etc....

Mr. Liebman thanks the Board for their careful attention and consideration of this application and look forward to concluding this application.

Mr. Newman asks for a motion.

Mr. Meer (Secretary to the Board) clarifies the amended impervious & the stipulation added with Ms. Peck...

1. Impervious increase to 40.90% where 35% is permitted
2. No Kitchen or separate living quarters above the garage.

Mr. Sina makes a motion to approve the application with a stipulation..
Mr. Meer seconds the motion.

VOTE: Mr. Sina, Mr. Meer, Mr. Newman, **YES**
Mr. Lancaster, **NO.**

**Motion Carries.
APPLICATION APPROVED.**

Mr. Newman asks for a 10minute Recess:

Mr. Newman calls the meeting back to order.

**ROLL CALL: Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster,
Mr. Meer & Mr. Newman, Present.**

(Mr. Dunay has recused himself from this application as stated earlier)

Commercial New Business

1. Application # 2006-038, Zap Lube
37-04 and 37-14 Broadway, Block 2201, lot 2 and 3
Amendments to prior approved site plan. Modifications to the site circulation and relocation of the existing free standing sign.

Mr. Stuart Liebman here on behalf of the Applicant before the Board this evening...

Mr. Liebman explains this application before the Board this evening is not a new application, it is an application for a modification to the previously approved plan that is still under construction....this application was approved in 2008, improvements were made and then stopped for a period of time while there were questions regarding the onsite circulation....different ways to address what some of the site improvements were at that time.

Mr. Liebman explains, Mr. Mark Kataryniak was the Board's Expert for Traffic Engineering at that point and has come back this evening. He was part of the application at the time of the approval.

Mr. Meer (Board Secretary) interrupts Mr. Liebman's testimony for Order of Business.

Fees have been paid and there is proof of service.

Mr. Liebman continues....work was under way; signs were a big issue previously in the prior resolution, a lot of discussion on the signs....this project has not yet been completed...the application before us this evening is in response to Mr. Kataryniak's report written back on August 6, 2012...explains....

The plan has been revised to show the modifications for circulation & while they were doing so, there is a free standing sign that is in front of the Car Wash building, in the middle of everything...it was on the approved plan to remain but during the course of these improvements it was determined it would be a lot better if they removed this...since we are back to look at the new changes, we will show the relocation of this free standing sign.....

Mr. Liebman mentions he did submit the application to the Broadway Improvement Corp for their review. They are not here this evening, but he did speak with Mr. Smartt.

Mr. Smartt did send in writing to Ms. Peck (Assistant Zoning Officer) & his office their primary concern was to insure this application would not change any conditions and variances on the proposed sign, package & program...and it does not, it will all remain the same...

Mr. Liebman continues reviewing the application for the Board and calls his first witness.

Mr. Newman swears in: Matthew Fox (Professional Engineer)
Canger Engineering
620 Plaza Road
Fair Lawn, N.J.

Mr. Newman certifies Mr. Fox as a Licensed Engineer in the State of New Jersey without objections from the Board.

Mr. Fox begins his testimony by explaining Mr. Weiner (Applicant) had consolidated the use of the two properties with a Traffic circulation pattern that allows the customers to enter from Route 4, access the Car Wash. He also has a facility here (points to Exhibit displayed) to go into the office...a drive thru bay for oil changes. There is also 6 bays for cleaning the cars and vacuuming.

Mr. Fox continues....there is a two story office building on the second lot...these two properties have been consolidated to allow traffic to circulate from the Car Wash property to the Office property...originally this was a Sign Application. Mr. Weiner had attempted to consolidate a lot of the signage being there was a lot of signage for all the stores and different buildings. He wanted to come up with something that was more uniform and cohesive...some of the signs have not been fully implemented but it is the Applicant's intent to follow through with all the items that were approved under the previous application.

Mr. Fox continues....

One of the major changes, but has a significant impact was Mr. Kataryniak (Board's Traffic Engineer) nice observation, he suggested we move the Traffic Aisle further back from Route 4. This way it would increase the safety of any cars that were going to make a

turn onto Rt. 4....originally it was approved immediately adjacent to the Pedestrian walkway (points to site on displayed Board Exhibit)

Mr. Fox commends Mr. Kataryniak for giving insight on where they could re locate it and re position this and after studying this himself, it was very apparent to him it was a much better way to handle the Traffic that was exiting out of the Oil Change Bays and any cars back onto Rt. 4....it insures that any car pulling out of the driveways are perpendicular to Rt. 4...

Mr. Fox explains the other change made to the existing site is they will take this existing sign (points to Board Exhibit) this is the major sign for Zap Lube...right now it is located in the middle of the pavement...30ft west of the Easterly property line, it separates the Car Wash from the Oil Bays. The intent is to relocate this existing sign within the pavement and move it to the property line here (points to Board Exhibit) it is noted on the Plan and you will see....currently it is 12ft high, 5ft wide and 1 ½ ft deep...they have indicated the offsets from the property line which is 10ft and from the easterly property line it's set back 1 ½ ft...

Mr. Fox states one of the difficult things on his part was to try and confirm the improvements that had been constructed prior to this application being resubmitted. Mr. Weiner (Applicant) had done a lot of the curb construction, the drainage and some of the Traffic circulation...pavement markings. A few of them have not been completed at this time so he has tried to review the entire plan and indicated anything constructed is listed as existing and things that have still remained undone is listed as proposed.

Mr. Fox continues testifying, Mr. Kataryniak had made a Site inspection and gave a nice plan with his comments and concerns...Mr. Weiner indicated there was some curbing in between the two buildings which he felt was restrictive to his customers...we consulted with Mr. Kataryniak and we agreed that a small piece of curbing could be eliminated in this location (points to Board Exhibit) and replace it with proposed striping. This is what is shown on the new plan.

They have changed the length, the number and the type of Bollards that they will be using along Broadway...he has provided a detail of these Bollards. Mr. Kataryniak had made a request we follow up with Mr. Ray (their Traffic Professional) had asked to address the concerns with regards to the previous Bollards which were concrete and they want to replace them with something that would control the Traffic flow but at the same time allow flexibility with the installation of the Bollards....

Mr. Fox refers to the “Construction Detail Sheet” – Sheet 7- explains the plan....

Bollards are 48” high/ 2 1/3” in width...Polyether plastic Bollard with a fixed base. If run over by a car or hit by a car, it will not damage the car and it can be replaced. This is a really good feature and would like to implement this into the plan.

Mr. Fox continues.....there is a storm drain that still needs to be upgraded. He has spoken to Mr. Weiner regarding this who questioned why he would have to increase the drainage structure that is already on the existing driveway. He explained to Mr. Weiner this was part of the prior approval and it would be to his benefit on his particular site to stay with this approval as opposed to try to revisit the issue...

Mr. Fox testifies they are going to complete the improvements that were approved under the prior application with regard to the catch basin located at the Easterly end of the property.

There is some additional landscaping. There is a Landscaping Plan contained within this set...explains. Most of the plants have already been installed but there are others that still have yet to be installed. Refers to Sheet 4 of 7- (Landscaping and Soil Erosion plan)

Testimony continues....

10-20 shrubs were approved under the previous approval that have yet to be installed at this time....so on this resubmission he has noted them as proposed...

Fencing is discussed...Mr. Fox notes Mr. Weiner has installed a nice 6ft. White Vinyl Fence along the rear property line-decorative fence. There has been a tremendous amount of improvement to the site...the site is clearly an upgrade from before the application was submitted.

Mr. Liebman (Applicants Attorney) questions the location the Gates....

Mr. Fox explains the Coroner had made the recommendation the applicant move the gates in front of the dumpster...his first indication was they wouldn't preclude in any way for access to the dumpster but realized based on the extensive landscaping and fencing along the back property line, explaining the resident has a 6ft. fence and has a very heavy landscaping buffer) they will not be able to see the trash enclosure.

Following the recommendation of the coroner, they removed the gates in front of the trash bins, although the bins themselves have remained in the same position exactly as they were approved on the prior plan.

Mr. Fox continues his testimony...in terms of the additional changes to the plan he believes this is it...he had made numerous trips to the site to show all the improvements are shown accurately on the plan..

Mr. Liebman (Applicant's Attorney) reviews all the changes with Mr. Fox & clarifying the differences in the amended & already approved site...

Mr. Liebman reviews the signage with Mr. Fox....

Mr. Fox explains the changes to the signs have not been incorporated at this time but it is the Applicant's intent to comply fully with the prior approval in terms of all the signage.

Testimony continues upon cross by Mr. Liebman....

Mr. Liebman refers to Mr. Conte (Superintendent of the DPW) comments indicating the improvements will only improve the flow of traffic within the property...

Mr. Liebman refers to Mr. Azzolina (Board's Engineer) comments...

Mr. Liebman reviews the items on reports submitted....Referring to the DOT-September 7th, 2011 letter stating no interest in the application.

Mr. Fox concurs...

Mr. Rosenberg (Board Attorney) asks Mr. Liebman to enter into evidence & mark as Exhibit A-1-Letter of No Interest dated September 7, 2011-addressed to Mr. John Ray (Ray Associates) regarding NJ DOT Letter of No Interest.

Mr. Fox states this plan is a very subtle change but it is significant...

Mr. Fox replies to Mr. Liebman's question regarding signage, explains they are moving the sign back 1-2ft. away from where it currently exists...should there be any variance associated with the existing sign, they are certainly not exacerbating any of the non conformities associated with it.

Mr. Liebman continues his cross...

Mr. Fox notes there are no changes to any of the orientation and the circulation patterns that were discussed as part of the application.

Mr. Liebman has no further questions...

Ms. Peck (Assistance Zoning Officer) has a question regarding the sign package for the store fronts...only on the front of the buildings, refers to the Metro Bowl Sign on the right & the one which was being removed- are they being removed? She was under the understanding these signs were going to remain.

Mr. Fox replies no, explains there was some of the signage on Yerger Road which has already been updated to meet the approval and everything regarding the Metro Bowl on Route 4 will be removed and upgraded to be in conformance, except for the one on Yerger Rd..

Discussion continues....

The Banner was removed, the signage was installed which was in compliance with the overall Sign package that is being submitted.

Mr. Fox notes the error and states it does say the sign will be removed, but it will remain and thanks Ms. Peck for the clarification. The existing sign on Yerger Road will remain and was installed as part of the approval.

Discussion continues.....

Mr. Fox states he has not seen the new sign package but the applicant is here, and he can clarify this particular issue.

Mr. Rosenberg (Board Attorney) clarifies for the Record per Ms. Peck's comments, although the plan shows the removal of an existing sign from Metro Bowl-10ft. in width, on the Southerly side of the building, there is an error in the plan and needs to be amended...

Mr. Fox explains this would be the Westerly side....

Clarification noted.

Mr. Sacchinelli (Board member) questions the area of shrubs & buffers...and brings up the subject of snow...knowing there is very limited parking spaces...where do they intend to put the snow? With all the trees and shrubbery proposed, where do they intend to put the snow? If we get 12inches or so...

Mr. Liebman (Applicant's Attorney) states this subject was addressed at the prior hearing and there was a condition #15 put in the Resolution, reads; the applicant agrees to the carting away of all snow during large snow storms...

Discussion....

Mr. Sacchinelli states it never was in the past and now with all the proposed trees & shrubbery, if snow gets piled there, all the greenery will be killed. He sees no other solution but to remove it..

Discussion continues....

Mr. Fox understands Mr. Sacchinelli concerns and states with a significant snowfall, with a 2-3ft of snow it will have to be removed, but on a small scale-less than a foot would not be much of an issue.

Mr. Fox refers to the Board Exhibit and points to areas where they could pile snow....

Discussion continues....

Mr. Fox mentions the residents in the area and noted they came out during the last year and Mr. Weiner obliged them by filling a planter with some beautiful landscaping...

Mr. Sacchinelli's mentions he lives in the area and he sees the pile of snow being pushed into parking spaces.

Mr. Fox notes Mr. Liebman's comments that Mr. Weiner would have to have the snow removed as a result of any significant snow accumulations...

Mr. Sacchinelli wants to know if there is a Contract with a Snow Removal Company because if we have in the resolution, it will be removed and it clearly is not....

Discussion continues....

Mr. Liebman addresses Mr. Sacchinelli concern and states like any other condition that is put in a Resolution Approval, if Mr. Sacchinelli were to observe it and notify the Building Department there is a condition to be lived up to, we would be notified and be sure to do a better job the next time.

Mr. Liebman states he will look into this....

Mr. Rosenberg (Board Attorney) has a question of Mr. Liebman. Not having sat on the approval in 2008...were the Landscaping Improvements bonded under any type of performance bond or maintenance bond? Was this a requirement on the Resolution?

Mr. Liebman did not see it in the Resolution, nor does he know if in fact a BA was done because of the relatively small nature of improvements...it looks like a lot but there is very little that is physically done....

Mr. Rosenberg continues; referring to Mr. Sacchinelli's point, and noting they could talk to the Board's Planner & Mr. Kataryniak as well. They need to be sure there is some protection so that the shrubs which are intended to provide a buffer are carried out, properly installed and properly maintained....perhaps a Developer's Agreement may be required for this amendment.

Discussion continues....

Mr. Meer (Board Secretary) speaks to the customers who visit the Metro Bowl and the other stores.....is there an agreement for them to park in the back.

Mr. Fox states there is an agreement and notes there is no restriction on parking behind the Metro Bowl building and points out the 4-5 spaces for parking along Route 4.

Mr.Sina (Board Member) questions the free standing sign and if they evaluated the possibility to move it further away from the property line?

Mr. Fox testifies yes and states they had looked at this. The cars that come into the Car Wash exit here (points to Exhibit area) back onto Route 4, so to move it any further from the property line, it would impede the flow of Traffic coming out of the Car Wash area.

Discussion continues.....

Mr. Mark Kataryniak (Approved Board Traffic Engineer for this Applicant) refers to Mr. Fox's testimony in regards to Site Circulation...he issued two reports, many more but specifically referencing a December 21, 2010 report and a August 6, 2012 report...

Mr. Kataryniak states the 2010 report really illustrated the recommendations for the circulation improvements along the Routet 4 frontage as Mr. Fox described with respect to the Bollards and the changes to the Site circulation...

Mr. Kataryniak continues to state the 2012 report spoke to conformance with the approved plan, the improvements that had been done to date and the improvements that had not been done. In his mind, just by looking at the Site circulation improvements, the applicant has pretty much completed the improvements...details...Lot 3.

The bulk of the plan that have yet to be accomplished are the Site circulation on Lot 2, which is the curbed sidewalk around the main office and drive thru bays, reorganization of the parking stalls along with the Site circulation improvements....striping, curbing, & so forth around the rear of the property.

Mr. Kataryniak so notes he did meet with Mr. Ray, when this application re-emerged and he did provide him with a copy of a letter from the DOT and he did take a look at this...

There was a desire on the applicant's part not to extend into the Route 4 right of way and modify the driveways on Broadway which is his prerogative....there is a circulation issue here where there are two driveways which are really about 45-50 ft in width....details...

Mr. Kataryniak continues....the improvements that were proposed which were highlighted in his 2010 report really attempted to narrow the driveways without physically modifying the work within the right of way. The Bollards really narrow this down and prevent access across the sidewalk....at one point in time we had issues with uncontrolled access across the driveways so the purpose there is to provide a physical & visual barrier that both pedestrians along Route 4 & motorists on the site can see how the driveways are supposed to function and not use the entire frontage for circulation...

It does a lot to improve safety and they do have to be flexible barriers...explains...

Testimony continues...

In review of the new plan, Mr. Kataryniak testifies he is satisfied with the new plan in the improvements shown and the proposed improvements that remain to be implemented as well as the modifications from his 2010 report and the one modification that we have to the island at the self service bay. Provided these all are done, as part of this new approval, he feels this plan predicts all the improvements as were originally intended by the Board.

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

Mr. Lancaster (Board Member) notes the Engineer answered his questions regarding the Bollards... why did the Carting Company recommend removing the gate in front of the Dumpster? It hid the dumpster from residents living in the area...

Mr. Fox testifies he can only speculate it had to do with accessibility. They have to be careful when removing any type of screening or gate from the dumpster, but upon further inspection of the fence, along the line that separates the commercial use with the residential use and the fact it is a 6ft high vinyl fence supplemented with a very heavy planting buffer. This screening really serves no purpose...

Mr. Kataryniak (Board Traffic Engineer) also explains there often is not a trash enclosure or dumpster located parallel to a driveway like this. They are usually at the end of a driveway. He would think it would be difficult to turn into...explains. The fence would probably block the drive aisle.

Mr. Lancaster is satisfied with this explanation.

Mr. Newman (Chairman) asks Mr. Kataryniak if there are any aesthetically superior alternatives other than these Bollards...

Mr. Kataryniak notes the only other alternative would be some type of curbing that could be along the front of the applicant's property...it would have to be high enough so that it would have vertical face within the site....

Discussion continues.....

Curbing with Landscaping would be too narrow....

Discussion continues....

Mr. Newman (Chairman) asks if there would be any objection to curbing rather than the Bollards.

Mr. Liebman (Applicant's Attorney) states he has been reading some of the history of this...the Bollards came to mind because they would be a better visual cue than putting in a curb which would not be as good as this visual cue...

Discussion continues.....

Mr. Mark Kataryniak testifies and explains the reason for the recommendation of the Bollards...circulation, etc...The idea was to put a physical barrier up between the oil change bays and the Route 4 curb line to force the circulation to the two drive aisles...

Mr. Sacchinelli questions Accident Records?

Mr. Fox (Applicant's Engineer) explains there was a request from the Board from the prior hearing to insure the pedestrian traffic was to remain separated from the vehicular traffic from the establishment....

Discussion continues....

Mr. Kataryniak states on the original application, his recommendation was curbing and this was the compromise...

Mr. Fox explains also with the Bollards, they consolidate the traffic to exit at one location. It is much safer to have all of the vehicles exiting out onto Route 4 in one location at the end of the Bollards as opposed to exiting thru the existing drop curbs along Route 4...details with Board Exhibit.

Mr. Sacchinelli feels in his opinion curbing would be better because after a while the Bollards get worn, cracked, etc....

Mr. Liebman suggests maybe going back to Mr. Rosenberg's point, having some maintenance guarantee in place for a period of time...Mr. Liebman notes the Bollards if damaged are removable for replacement and clarifies with Mr. Fox.

Mr. Fox testifies the Bollards do have a removable base, they screw right down. A plate gets anchored into the ground. Mr. Weiner has a lot of concerns in regards to the aesthetics of his establishment and he is satisfied they will not be detrimental to his façade and also address the concerns of the Traffic Engineer who wants to delineate the traffic flow in the front of the facility from the Pedestrian traffic along Route 4. It does accomplish all the objectives we are trying to achieve.

Mr. Newman wants to move on and asks Mr. Liebman if there is any other testimony to present.

Mr. Liebman has no other testimony, but he did have a moment to speak with his client and states there is in fact a Contract in place with a Snow Removal Contractor which includes, when necessary the carting away of snow and there were also some special drains put in towards the rear, measures have been taken....

Mr. Newman asks the Board Members if there are any other questions.

Mr. Sacchinelli is satisfied with hearing this....

Discussion continues....

Mr. Rosenberg (Board Attorney) speaks to the snow removal and the issue of Landscaping which they have not heard from their Professionals about whether or not they concur with the possibility and whether they are prepared to prepare the necessary budgetary estimate which would be required for purposes of the maintenance and performance bonds being posted....whether the applicant would concur with this....

Discussion continues.....

Mr. Kataryniak (Board Traffic Engineer) speaks in the capacity of the Engineer and not speaking for Paul Azzolina (Board Engineer) Typically, in these types of applications, when there are concerns for Maintenance & Landscaping , he feels it is appropriate to include a condition, that the applicant bond for the maintenance & the landscaping and that the landscaping be maintained for a specific period of time.

Mr. Kataryniak continues....in light of the fact that one of the modifications the applicant has proposed is removing the gates at the trash enclosure, the fact that it does face the residential properties, he thinks the landscaping screen & fence does more to screen the residents than the gates do. In light of the fact, it all is in respect to the buffer, so maintenance of the buffer would be a concern of the Board at this time, so he would recommend some sort of bonding...

Mr. Van Den Kooy (Board Planner) concurs with Mr. Kataryniak and agrees with him regarding the buffer & some type of Bond should be in place.

Mr. Liebman (Applicant's Attorney) notes based on the concerns that have been raised, we do understand them....explains they have reasonable concerns regarding the maintenance with some of the landscaping in these areas and the snow removal and the Bollards....he agrees, within reason.

Mr. Newman (Chairman) states the only other thought he has in regards to the application is the completion of the work. Is there a way, if any approval tonight can be attached to the completion of prior approvals....

Mr. Rosenberg explains the applicant is before us seeking an amendment and a revision and he feels they do have the ability to put a time restraint on the applicant with respect to the phasing and the completion of this project.

Discussion.....

Mr. Rosenberg continues...he does not know if Mr. Liebman is prepared with Mr. Fox and our Experts put together a Phasing schedule with his client...that everyone could live with.

It needs to be specific because the ramification of the failure to comply is going to lead to an Enforcement Action.

Discussion continues...

Mr. Fox has testified the Applicant intends to do these things and follow through and carry out and perform, but as indicated, the Board does have the ability to have a specific phasing plan...

Mr. Rosenberg recommends Mr. Liebman taking a 10minute Recess with Mr. Fox and his client to discuss this subject and come back and have a discussion. Other than this, we would have to adjourn the hearing and give him the opportunity to come back and give us a very specific schedule so we could incorporate it into a Resolution.

Mr. Newman makes a suggestion from the Board's perspective, knowing how long they have waited for these improvements...he suggests they come back for a quick open and close vote with a very well defined plan rather than a 10 minute recess.

Discussion continues.....

Mr. Liebman has concerns with this...his hope is they have a miraculous mild winter...we all are aware of what happened a year ago. The sooner we get this done, the sooner we can get started. His client has indicated to him that a 12month period would be doable, but to be safe he would suggest 18months to get everything done top to bottom...

Discussion continues...

Mr. Rosenberg speaks to Mr. Liebman and states; to say that all will be done and completed within 12-15 months, I do not think this is what the Board is looking for...they are looking for a definitive time frame for a particular item or items and when each will be done...this is what they are looking for. There are a lot of different items here on the plans that have not been completed...references signage....when will the Bollards be installed, when will the Landscaping be done...

Mr. Rosenberg continues, he thinks this will require some effort on his part to go back with the applicant and also to speak with the Zoning Official & the Board Professionals and decide exactly when things will be done....

Mr. Liebman (Applicant's Attorney) would like to know when the next meeting date is.

The next meeting of the Zoning Board of Adjustments is scheduled to be heard November 25, 2013.

Discussion continues....

Mr. Fox (Applicant's Engineer) states that his client has installed approximately 80-85% of the improvements. He agrees there are items that have to be finished and it has been a long period of time, but most of them are already installed.

Discussion continues....

Mr. Newman notes 15% of what was already approved can be worked on and be completed this month while the rest of the improvements are worked out. No one is stopping them from working.

Mr. Liebman agrees and so notes they will continue on the improvements that were already approved.

Mr. Liebman takes a moment to speak with his client, states they would like to have closure with this. He does understand what the Board is looking for, but with the memorializing of the Resolution & such, it would be two months they would be looking at.

Mr. Liebman asks if they could agree that everything that is shown on this plan is done no later than 12months from today or the Resolution, they would be fine with this.

Discussion continues...

Ms. Peck, Mr. Rosenberg & Mr. Newman discuss this agreement, but Mr. Newman feels strongly they need to see an organized scheduled that shows the most important items to be completed first, done by a reasonable period of time.

Mr. Liebman suggests if the Board sees fit & grants approval on the condition that all improvements will be completed within a period of twelve (12) months and the applicant as a condition will meet with the Construction/Zoning Official to establish a basic schedule where they could prioritize signage, etc....we will do this first.

Discussion continues....

Mr. Newman & Ms. Peck discuss if it is feasible for all the improvements could be done within a 12 month period.....

Discussion continues....

Mr. Newman discusses the issues with Mr. Liebman and reviews what he feels is feasible.

1. All signage be completed within 3months.
2. Plantings, Bollards & Curbing & Landscaping- 6months

Mr. Newman reiterates for the record; all of the previously approved signage can start tomorrow. There is no reason to wait; there is no resolution, no permits....

Discussion...

Mr. Rosenberg states the Resolution will require for the Bond amount to be established by the Board Professionals in respect to the Landscaping as well as the Bollards.

Mr. Newman opens for questions or comments from residents living within 200ft. seeing none,

Mr. Newman closes this portion.

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

Mr. Newman asks for a motion.

Mr. Sacchinelli makes a motion to approve the application with the following conditions:

1. 90 days to install all signage from date of issue of permits.
2. Planting and all other improvements required by this resolution and the prior resolution are completed no later than June 1, 2014.
3. Applicant post maintenance & performance bonds for landscaping & Bollards in the amounts determined by the Board Professionals.

Mr. Sina seconds this motion.

Mr. Liebman (Applicant's Attorney) interjects to state all Landscaping improvements were completed.

Mr. Rosenberg (Board Attorney) so notes to the Board if the Board just wants to make it a Maintenance Bond, so be it. Mr. Liebman has testified most of the Landscaping has been installed.

Discussion...

Mr. Sacchinelli amends the motion to amend condition #3 to a Maintenance Bond only.

Mr. Sina seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Seibel, Mr. Sina, Mr. Lancaster, Mr. Meer & Mr. Newman, YES.

Mr. Newman continues with Order of Business.

Minutes

Mr. Sina made a motion to approve the minutes for the August 19, 2013 meeting and Mr. Seibel seconded the motion.

VOTE: All Present – AYE

Mr. Sina made a motion to approve the transcripts to be approved as minutes for the September 30, 2013 meeting and Mr. Lancaster seconded the motion.

VOTE: All Present – AYE

RFQ's

RFQ's Discussion amongst the Board- It is determined Professionals are no longer required to appear before the Board as part of the RFQ process.

VOTE: All Present- AYE

Approval of 2014 Zoning Board Calendar:

VOTE: All Present- AYE

Resolutions:

1. Application #2013-026, Teodor & Louella Lazar, 41-02 Erli Road, Block 1514, Lot 20, Zone R-1-2– Proposed Deck- Approved.

Mr. Sacchinelli made a motion to accept this Resolution & Mr. Seibel seconded the motion.

VOTE: All Present- AYE

2. Application #2013-027, Iris & Daniel Schnipper, 32-15 Southern Drive, Block 2415, Lot 2, Zone R-1-3– Proposed Addition- Approved.

Mr. Sacchinelli made a motion to accept this Resolution & Mr. Seibel seconded the motion

VOTE: All Present- AYE

3. Application #2013-028, John Feola, 10-20 Burbank Street, Block 4522, Lot 6, Zone R-1-3– Above Ground Pool- Approved.

Mr. Sacchinelli made a motion to accept this Resolution & Mr. Seibel seconded the motion.

VOTE: All Present-AYE

Vouchers:

1. Winnie Banta Hetherington Basralian & Kahn, a fee in the amount of \$816.66 for Legal Services for the month of October, 2013 Zoning Board meeting.

Mr. Sacchinelli made a motion to accept this voucher & Mr. Sina seconded the motion.

VOTE: All Present – AYE.

Estimates:

1. Estimate submitted by CME Associates in the amount of \$1050. 00 regarding the Zap Lube Application.

Mr. Sacchinelli made a motion to approve this estimates and Mr. Sina seconded the motion.

VOTE: All Present – AYE.

2. Estimate submitted by Mark Kataryniak, French & Perrillo, in the amount of \$1500.00 regarding the Zap Lube Application

Mr. Sacchinelli made a motion to approve this estimate and Mr. Seibel seconded the motion.

VOTE: All Present – AYE.

3. Court Stenograper, Laura Carucci CSR submitted a bill for payment for the month of September 30, 2013 for 7-10 Overtime in the amount of \$269.00

Mr. Seibel made a motion to accept this voucher and Mr. Sina seconded the motion.

VOTE: All Present – AYE

Adjourn: 10:20PM

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

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk