

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of August 19, 2013**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on August 19, 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. Sacchinelli, Mr. Lowenstein, Mr. Seibel, Mr. Gil, Mr. Sina, Mr. Lancaster, Mr. Puzio, Mr. Meer & Mr. Newman

Absent: Mr. Dunay, Mr. Blecher

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 #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.

Board Members recused from the Application.

Mr. Lowenstein
Mr. Sacchinelli
Mr. Seibel
Mr. Gil

Ms. Peck (Assistant Zoning Officer) also makes note that although absent, Mr. Daniel Dunay would have had to recuse himself from this application.

Mr. Newman calls up Mr. Stuart Liebman, Attorney, present on behalf of the Applicants, Nicholas & Sarah Trawinski.

Mr. Liebman represents the Law Firm; Wells, Jaworski & Liebman.
Paramus, N.J.

Mr. Liebman begins his testimony referring to the Applicants, his clients, Nick & Sarah Twawinski who reside at 3-33 Lyncrest Avenue, located in the R-1-3 Residential Zone. The applicants are asking for a second curb cut to the property, there will be a change in impervious coverage, explains...

Mr. Liebman also notes an existing 6ft. fence which they would like to relocate a little closer to the Willow side as part of the changes to the property, approximately 2ft closer into the required front yard setback, where a 3ft high fence is the requirement...

Mr. Newman stops Mr. Liebman's testimony for Mr. Meer to complete his duties as Secretary.

Fees have been paid and there is proof of service.

Mr. Liebman continues...this is a corner lot which is oversized for the zone. The zone requires 6500sf, the lot is 13,400sf. There is an existing in-ground pool with a paver patio around it.

Mr. Liebman notes the Board has seen quite of few of variance applications involving impervious coverage over the past few years regarding in-ground pools & patios similar to what exists at this property. They are aware the Board has done its Annual reporting...etc...to the Government body to the number of variances that were requested and suggested a number of changes in the Ordinances based on frequency of request...

Mr. Liebman continues...they are in the process of redoing these regulations now and attempting to make modifications to the Ordinances that may relax the standards for this type of application...change in Ordinance may be forthcoming. Based on what they have been able to observe in the process, we believe the application is consistent with the type of change to the Ordinance that is being considered.

Mr. Liebman states he has his Engineer who will describe this in his testimony...

Mr. Liebman asks Mr. Rigg to please step forward to testify.

Mr. Newman swears in: Mr. Bruce Rigg
1000 Maple Avenue
Glen Rock, N.J.

Mr. Newman certifies Mr. Rigg as an Expert Witness in the Field of Engineering without any objections from the Board.

Mr. Rosenberg (Board Attorney) recommends to the Chairman to open to the General Public to see if they have any questions on the qualifications of Mr. Rigg as an Expert in the Field of Engineering.

Mr. Newman opens to the General Public for questions only regarding his expertise. Seeing none, Mr. Newman closes this portion.

Mr. Rigg begins his testimony...notes the Plan before the Board, familiar with the property...

Proposed plan entered into evidence and marked as Exhibit A-1

Mr. Rigg testifies & describes the property as approximately 13,400sf in size...existing dwelling faces Lyncrest Ave, in the rear yard there is a swimming pool, hot tub, paver area and a driveway that enters on Willow Street....cars can be stacked and filled into the area behind the home, there is also a dog run in the NE corner of the property as it exists today.

Mr. Rigg speaks to the proposed changes; A shed in the rear yard that would be fully conforming. Increase the width slightly on Willow Street; reduce the depth of this...22ft off the right-a-way. One of the variances they are asking for is; although the driveway is allowed to be 22ft wide, the curb cut is 18ft...

Ms. Peck (Assistant Zoning Officer) interjects his testimony to state; the curb cut can be 20ft. long...

Mr. Rigg notes this and continues with the proposal. Take the existing 6ft. fence on the Southern end of the driveway now and move it to the northerly extension of the dwelling, explains....it would then intrude on the front yard setback of 25ft. setback in which only a 3ft fence is allowed.

Mr. Rigg continues...refers to an area of the existing driveway where a part of it now is proposed to be top soiled and seeding, to be landscaped which would remove some impervious coverage in this area..

They are also proposing on the SW side of the property on Lyncrest, an additional driveway, 12ft. wide and 40ft. deep for additional parking in this location. The variance we are requesting is for the 2nd dropped apron for the waiver, where you are only allowed one per property...

Mr. Rigg speaks to the different coverage calculations on the property...details. The proposed impervious is going to be 5424sf. which is actually 62sf less then what is existing. We are asking for an approval of the extra 1,171sf pervious from what has been on the permits at the Building department.

Mr. Newman (Chairman) interjects and states he needs clarification on what was just said...there seems to be confusion as to what is there, what is not, what has been approved, etc..We are dealing with a lot of impervious coverage so he suggests we should go slowly.

Mr. Rigg understands and reiterates the existing impervious is 5486sf existing or 41%.. The approved coverage on record from the Building Department is 4253sf...so it was actually 31.7% that was previously installed and improved...

Mr. Newman requests from the Mr. Rigg, if he is are going to refer to the 5,486sf as the current impervious, please make it clear that the current “approved” impervious is a different number...

Discussion continues....

Mr. Newman states; the Board reviews each application as if it is being presented whether the work was done ahead of time or not...explains. In his opinion, the Board needs to be looking at an increase of an approved 31.7% and being asked now to approve 40.5%.

Mr. Liebman (Applicant’s Attorney) states; what we are trying to do & make clear is what the set of coverage calculations are that are on the plan. What is misleading is the terminology is the “previously approved” impervious...

Mr. Liebman continues...there has not been, to his knowledge any application for any quantity of impervious, no variance request for impervious. It was never a factor of an application. There is nothing out there that says; you are allowed to have 31.7% impervious...the history of the property involves a multiple modifications and renovations to the property that were made all with permits...

Discussion continues....

Mr. Newman questions if Fair Lawn records include copies of all these approvals over the years...

Mr. Liebman states yes.

Discussion continues....

Mr. Newman continues with his questioning; do we have a bunch of approvals that are wrong. Do the approvals from other towns match up with the 31.7%? Or are they saying something else.

Mr. Rosenberg (Board Attorney) interjects to ask if Ms. Peck (Assistant Zoning Officer) could be sworn in and add some light to the issue...

Mr. Newman swears in: Ms. Ann Peck
Assistant Zoning Officer to the Borough of Fair Lawn

Ms. Peck begins her testimony by explaining the history behind the property....regarding the pool installation, apparently the builder added more impervious to the property than originally on the plan. The patio did not match the plan they had, so they should have come back, but Saddle brook signed off on the permits, and the homeowners assumed everything was fine.

Mr. Rosenberg asks if Ms. Peck concurs with Mr. Liebman on the 31.7%..

Ms. Peck states they pulled all the files, had surveys done...that is what we came up with.

Mr. Newman clarifies the 9.3% difference is extra pavers around the pool...

Ms. Peck notes there may be other areas that were missed, but that is the majority of it.

Discussion continues.....

Mr. Liebman notes 35% is allowable and we are here asking for 40.5%. We will look for approval and have a clean record for the future.

Discussion continues....

Mr. Newman asks Mr. Liebman to please explain to the General Public why Out of Town approvals existed in the 1st place. Referring to the previous owner and not giving the details does not serve the record properly with the Public.

Mr. Liebman states he does not know the definite answer to this because he was not involved with the Applicants at the time, but his speculation is; the prior property owner was an Elected Official of the Borough. Was a Board Member of the Borough, and an Attorney to some of the agencies to the Borough? For any one of these reasons, there was a need to send this out of town to be reviewed. This is my guess. I don't know for a fact.

Ms. Peck states the Zoning Review is done by Fair Lawn, the Building inspection & the closing of the permit is done by a neighboring town...there would be conflict and this policy is done in most towns...

Discussion continues.....

Mr. Rigg (Applicant's Engineer) speaks to the impervious coverage.

Mr. Newman asks Mr. Liebman if Mr. Rigg is his only expert witness tonight, to which Mr. Liebman replies yes.

Mr. Newman then questions Mr. Rigg on the impervious coverage...explains. Quite often when this Board considers variance relief, we look at non conformities or other issues with property that may indeed to the granting of a variance, for instance, an irregularly shaped lot, etc..

In this town, most of the lots are significantly undersized for the zone...

Mr. Newman asks if this were a conforming lot, what would the impervious coverage be...this is a significant oversized lot, again not something you see often...with an overage of impervious coverage...

Discussion on calculations....

If it were a conforming lot of 6500sf. it would be a request for an 83 1/2% impervious coverage...

Discussion continues....

Mr. Liebman (Attorney) notes he does not think the Board sees applications of 83%....the logic does not work...

Discussion....

Mr. Liebman reiterates the discussions within the Borough regarding the changes to the Ordinances...they are not in place as of yet but we have a sense of what will be imposed...one of the discussions were the way a pool is treated or will be calculated, whether or not it should or should not count toward impervious....there is some discussion about eliminating one half of the area of the in-ground pool from impervious coverage...

Allowing a 10% increase over what the permitted maximum impervious coverage is in any particular zone....pavers, etc...

Discussion continues....

Mr. Newman asks Mr. Liebman where he has heard this “Discussion” heard...

Mr. Liebman states in the Borough of Fair Lawn, the Governing Body, the Planning Board....

Mr. Newman states; they are only discussions at this point in time & he knows very little about the discussions, but he does not have any knowledge of those discussions leading to an Ordinance anytime soon. Even if there are discussions, there are no agreements. They will have to be careful about what they assume what may be the end result of these discussions and whether we would want to base any relief based on an assumption...

Mr. Newman continues; prior to this application, this Board has made similar suggestions in its annual Report regarding pervious pavers, and calculations of pools....as you state, it will be considered, but again this Board can only make decisions based on current Ordinance.

Discussion continues.....

Mr. Liebman states they are not presenting any of this information in any way to suggest it is what is permitted and it would eliminate the need for a variance...long before the Planning Board ever spoke about it, long before the Governing body ever had discussions, the concept of mitigation of an impact of a variance existed and that is really all we are talking about....

Mr. Rigg continues his testimony...he created an alternate coverage calculation using some pervious pavers to the driveway that is going in on Lyncrest Avenue...he also took in the consideration of the pool with 50% coverage....only to see what he could come up with..using these numbers, they are at 37.72% vs the 41%....assuming the suggestion was if we use pervious pavers, in any of the coverage over 35% if its pervious...post driveway on Lyncrest...

Mr. Rigg explains his client is willing to change the driveway in front to use pervious pavers....

Drainage is discussed...

Mr. Rigg sees no issues with water...

Storm water management is discussed....

Discussion on types of pervious pavers....

Mr. Liebman also discusses the variance for the 2nd curb cut. This is a design benefit. This comes in a section where we are talking about the circulation, means of ingress & egress and the way the driveways are configured as opposed to impervious coverage....

Testimony continues....

Discussion regarding the additional driveway on Lyncrest would not affect the circulation on Willow other than moving cars....

Discussion...

Mr. Rigg states the alternative would be to make the driveway larger on Willow Street with a larger curb cut...if they wanted to put four cars on Willow, they would have to

pull in on both directions, because there is a major tree sitting right there...points to tree...

Mr. Newman interjects testimony to state he is missing something, so he would like to clarify....currently there is a large macadam driveway, just by its appearance seems it would accommodate almost as many cars as these two proposed driveways. What is the reason for removing that and adding a second driveway with a second curb cut?

Mr. Rigg testifies that he understands it is for the use of the rear yard. Fence in the area and making most of the area around the pool. Reducing the amount of impervious in the rear....actually there will be a smaller driveway than what exists now....explains in detail. For family recreation in a safe area...etc.

Testimony continues....

Mr. Liebman reiterates the lot size is 2x the size than what the zone permits...if this were split into two conforming lots there could be two separate driveways like this along either one of the frontages...

Discussion on the fence...if they pull the fence back to the 2.6ft required of the dwelling, it would be right into the rear window of the dwelling...this is one of the reasons why his clients wanted it where it is proposed. It will be consistent with the dwelling...

Mr. Newman (Chairman) asks if this is depicted on the plan?

Mr. Rigg states; it is not, but he could provide a picture if need be.

Mr. Liebman notes Photo will be entered into evidence as Exhibit A2..

Mr. Rigg states picture is looking at the NE corner of the dwelling and the window in question...

Review of Photo amongst the Board Members...

Mr. Rigg testifies he feels the proposal would be a better laid out plan and would work better on the site....

Mr. Liebman reviews the positive vs the negative criteria of the proposal with Mr. Rigg.

Discussion....

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

Mr. Puzio (Vice Chairman) directs his question to Mr. Rigg and states; basically he gave a lot of personal reasons for reconfiguring the lot and the second curb cut...but what is

the actual hardship that would require the second curb cut? This is an oversized lot and we (the Board) want to understand what the hardship is.

Mr. Rigg testifies he does not know if he could tell the Board the exact hardship for this. It can provide parking in the location with better use, better access in this fashion...

Mr. Rigg is asked how many cars can fit in the existing driveway.

Mr. Rigg testifies all the cars could fit in the existing driveway...

Mr. Rigg is questioned on how many cars could fit in the existing driveway to which he answers approximately 6 cars.

Mr. Liebman (Attorney) reiterates the tree along the existing driveway would have to be removed...explains the proposal again to the Board regarding the fence and the reason for this design, etc.....

Mr. Newman interjects to state he does not understand the issue with the fence and to please review the reasons why it has to be moved.

Mr. Rigg details the proposal of the fence...

Mr. Liebman stresses also the need to have a safe area on the smaller lot along Willow Street for the children.

Discussion.....

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

Mr. Newman opens the witness to questions only from Residents living within 200ft. of the applicant.

Mr. Newman swears in: Scott Epstein (Speaking on behalf of Joddi Kaye)
3-23 Lyncrest Ave
Fair Lawn, N.J.

Mr. Liebman (Applicant's Attorney) notes to the Chairman this person speaks not on his behalf, but on another which he does not think would be an authorized statement, unless this gentleman's an Attorney's representing another party.

Mr. Newman notes the person he is representing is seated in the audience.

Mr. Newman asks the person he represents to be sworn in and then ask that you speak on her behalf or speak with him.

Mr. Epstein agrees.

Mr. Newman swears in: Joddi Kaye
3-23 Lyncrest Ave
Fair Lawn, N.J.

Mr. Liebman wants the resident to know the reason they have to do this is with her comments or questions, it would give them the opportunity to ask you questions also.

Ms. Kaye understands.

Mr. Epstein has a question for Mr. Rigg regarding the total square footage of the property vs the variance requests. Did he or someone from his firm physically measure the property?

Mr. Rigg states yes.

Mr. Epstein asks if the total square footage of the property or the existing structure, include the once two car garage that now is converted to living space.

Mr. Rigg states yes.

Mr. Epstein asks; does it also include the backyard dog run area...asks if this is located in the backside of the property off of Willow or the Lyncrest side of the property.

Mr. Rigg states it is located on the backyard towards Willow...somewhere in the area where the proposed shed will go.

Mr. Epstein asks the reason behind the 2nd curb cut, if he is to understand correctly from your client's point of view is to help the parking...in & out of the driveway on the Willow side...

Mr. Rigg states yes, it would essentially split the parking on the Willow side...

Clarification on the proposal of the expansion of the curb cut on the Willow Street side.

Mr. Epstein has no further questions for Mr. Rigg at this time.

Mr. Newman again opens to Residents within 200ft. for questions for the Witness, Mr. Riggs. Seeing none,

Mr. Newman closes this portion.

Mr. Newman opens for questions or comments from the General Public for Mr. Riggs.

Seeing none,

Mr. Newman closes this portion.

Mr. Newman asks the Board Members if there are any more questions for Mr. Riggs.
Seeing none,

Mr. Newman opens for any comments or questions regarding the application for residents within 200ft. of the Applicant.

Mr. Scott Epstein steps forward, speaking on behalf of Ms. Joddi Kaye.

Mr. Liebman (Attorney for Applicant) asks the address again of Ms. Joddi Kaye.

Mr. Epstein gives the address & states it is two houses down on Lyncrest.

Mr. Liebman then asks Mr. Epstein where he lives.

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

Mr. Epstein has a question on the inspections that were done by the previous owner of the property, does anyone know when the pool was installed?

Ms. Peck (Assistant Zoning Officer) looks through the Building permits and states October 12, 2012.

Mr. Epstein states according to Bergen County Records the property was not owned by a free holder Elected Official. It was owned by a Mr. Nicholas & Sarah Twawinski at that time. The property should not have been inspected by an outside agency. It should have been inspected by a Fair Lawn Agency.

Ms. Peck testifies, a decision was made by the Construction Official at that time after reviewing the application and he did have the power to do so.

Discussion continues.....

Mr. Epstein discusses the fence that is on the Lyncrest side which is on the next door neighbor's property; this was installed by the Applicant.

Mr. Newman asks to be more specific.

The address is; 3-27 Lyncrest Avenue...the fence that adjoins the two properties was installed by the applicant and was installed on the neighbor's property.

Mr. Liebman interjects and states unless this gentleman is now giving factual testimony and wants to present himself as giving testimony, not making comments. We don't know how accurate or not...

Mr. Newman reviews the survey & states; it does appear to him, it is **not on** the property of this application.

Mr. Rigg does agree.

Mr. Newman swears in: Susan Ortega (Property owner adjacent to the Twawinski's)
3-27 Lyncrest Avenue
Fair Lawn, N.J.

Ms. Ortega begins her testimony stating the property is listed under Lombardo which is her maiden name. She currently lives there. She installed a chain link fence when she purchased her home & placed it further into her property than the border of the property because at the time there was not an existing fence, she had a large dog and the Twawinski's had small children and she did not want the dog to go into Mr. Twawinski's property.

Ms. Ortega explains she placed the fence further into her property because there was a hedge there...the fence would be camouflaged...when the Twawinski's were putting the fence up for the pool, she notified them and asked the Installer to please stop installing the fence. She went out with the original survey and she spoke with Mr. Twawinski and asked him to please stop.

Ms. Ortega continues with her testimony. She was told by the Zoning Department, that in order to install a 6ft. fence, you must have a survey. They stopped the work that day, but when they completed the installation of the fence, she believed it was not on her property, but in fact, it is on some of my property.

Discussion.

Mr. Newman asks Mr. Rigg if he concurs with the resident.

Mr. Rigg after reviewing the survey does agree that the fence is partially on the resident's property.

Mr. Liebman (Applicant's Attorney) states the Board would have no jurisdiction to authorize or not authorize the installation of the fence that is on or off the property. This is not the subject matter for the Board...however...

Mr. Liebman directs his question to the resident and asks; have you contacted the neighbor's about relocating it?

Ms. Ortega states no, she has been waiting. She has been waiting for this application for the variance and this is how she found out the fence was still on her property.

Mr. Liebman states if this is something she would like the neighbors to consider relocating the fence on their property, they are certainly willing to have this conversation outside the scope of this Board...

Ms. Ortega states she does not want a war, it's really not an issue, but for the future of the sale of the property, sometimes it becomes an issue with selling the home...

Mr. Newman states he does not feel it's completely outside the scope of this Board to ask for something as a condition of approval, though...

Mr. Liebman notes this and states the Board can certainly make it a condition of approval but what they are saying is; they are certainly willing to talk with the neighbor and if she so desires for it to be relocated, then we will relocate it.

Mr. Newman thanks Mr. Liebman.

Mr. Epstein (on behalf of Joddi Kaye) continues his questioning regarding impervious coverage. They covered they were currently over the approval for this property and part of this variance request is to put this into compliance. Correct?

Mr. Newman states no. Compliance would be under 35%. That is not what they are requesting. They are requesting 40.5% which is 5 ½% over if it is approved.

Discussion...

Mr. Epstein moves to his next question and states; one of the particular things they like about Fair Lawn as visitors and residents is character of the neighborhood...specifies Radburn, etc...

Mr. Epstein notes the Lyncrest area is a very unusual character of an area as well. Passes around photos of the neighborhood...

Mr. Epstein states they are photos taken with a digital camera this past Sunday, August 18, 2013 with the addresses written on the backside.

Exhibit O-1/Set of 24 photographs taken by the witness entered into evidence.

Mr. Rosenberg (Board Attorney) asks the Applicant's Attorney, Mr. Liebman if he has any objection.

Mr. Liebman has no objections.

Mr. Epstein testifies in all this area near this application, there are many double lot properties, which are very unusual for the town of Fair Lawn, explains.

All the double lot properties in the area have a housing footprint much smaller than the applicants..

Mr. Liebman asks what Mr. Epstein has done to determine what the housing footprints are. Has he looked at a survey of all these properties?

Mr. Epstein states he had a visual survey.

Discussion continues....

Mr. Epstein states he does not know the exact size.. in appearance, the properties seem to have a smaller footprint of house, a large amount of green space..

Mr. Liebman again reiterates; has he determined the size of each one of the lots?

Mr. Epstein states he does not.

Mr. Liebman continues questioning Mr. Epstein on how much greenery or impervious coverage exists on these lots?

Mr. Epstein states he does not know.

Mr. Liebman states to the Board, he does not think they have to hear anymore testimony by way of comparison or sizes or quantity...

Mr. Newman (Chairman) interjects and states; he does have a right to his opinion and the right to express it. It is clear that he does not know the lot sizes or the impervious coverage or any calculated green space, but he is strictly speaking as a matter of opinion as to the character of the neighborhood which frankly we do a lot on applications...

Discussion continues....

Mr. Epstein is the reason why he is bringing this to the attention of the Board is because back on March 18, 2013, a Mr. Reeves was questioned in regards to his application for his variance and Mr. Reeves testified that almost everyone up and down the block has exactly the same....

Mr. Liebman interjects and states we cannot put this into the record that someone said and someone on another variance...

Mr. Newman interjects & reiterates to Mr. Liebman, that in all due respect, he can object but to give him a chance to be the Chairman first.

Discussion....

Mr. Epstein continues...everyone up & down the block has a foyer bump out which started as a Cape & added a foyer. It would be more in character with the neighborhood if he was allowed to have his variance...

Mr. Newman states to Mr. Epstein that every application stands on its own merit. What took place at that time during that application is not applicable here. In the Municipal Land Use Law, every application stands on its own merit...however, it is true in every application, we ask about character of neighborhood. Keep the questions and comments in terms of your opinion as to the character of the neighborhood. What happened with another application has no bearing on this one.

Mr. Epstein understands.

Mr. Epstein uses the analogy of; sometimes you can't put the animals back in the barn once the barn doors have been left open. He feels if a variance of this nature was to be approved where a large amount of impervious coverage on a double size lot...we have similar double sized lots in that part of Fair Lawn, it could be cons cued down the road in the future, all variance requests will look back to this one as the starting point of their requests...

Mr. Newman reiterates; they couldn't because again each application stands on its own merit. However he does understand the spirit of what he is saying. Whenever there is a proposal that is significantly larger in some sense...size of structure, impervious coverage...in the overall neighborhood, people do worry about it being the first domino in changing the character of their neighborhood...

Mr. Epstein states this is where the concern is of Ms. Kaye & Ms. Ortega.

Mr. Newman states so noted.

Mr. Epstein thanks Mr. Newman for his time.

Ms. Ortega steps up to the podium. She has a couple of concerns about some things. She is empathetic to the parking situation. She herself has a conjoined driveway, thru no fault of her own. At the times when the homes were built, they were custom built homes. At the time, for whatever reason someone thought it was a genius idea to have a conjoined driveway.

Ms. Ortega continues to state they also have a parking issue, because they have to park their cars one behind the other, there is not an opportunity to park any other way and Fair Lawn does not have overnight parking, we have to pull our cars out on the morning hours & weekends to park on the street. She is empathetic to the juggling of the cars, she also

goes to work at 4:30 am and needs to be last in the driveway....Sunday night she juggles the car so she does understand.

Ms. Ortega does have a concern with making the second cut onto Lyncrest Ave stating the driveway would be 15ft. from her very small piece of property. Explains....

Part of her 50ft frontage is part of her conjoined driveway. The other side would be this proposed driveway which would definitely impact the street parking and bring us further to the Fire Hydrant which would make it difficult to park on the street...

The other concern would be it being right outside her Master Bedroom window on the first floor, a noise factor.

From the fence point of view, she understands they have to have a 6ft. fence because of the pool but on the Lyncrest side, it would be seen in their rear bedroom. They may not want it outside their window and through no fault of theirs, it's just the way the lot falls but that fence is outside of my window & now we are talking a driveway outside my bedroom. She feels this would impact the future sale of her home negatively. It would make it a very crowded looking property...she feels it would be a negative impact.

Parking would be impacted on the street because we are already impacted by the House of Worship & St. Annes is down the street and during the Holiday time a lot of residents who cannot walk need to park...they park on our street. It would only make it more difficult to park on the street because you cannot park of course in front of a driveway.

Ms. Ortega summarizes her testimony with these are the concerns she does have about granting this driveway on the Lyncrest side.

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

Mr. Newman asks if there are any questions from the Board. Seeing none, Mr. Newman turns this portion over to Mr. Liebman for a summation.

Mr. Liebman states one would observe the character of the neighborhood based on the submitted pictures to give you an idea of what the surrounding area is like. The changes that are visible to the public as a result of this application is the deduction of visible pavement and parking impervious area along Willow...and the relocation of the fence that would enclose and minimize the impact of what is going on from outside the property. An addition of one 12ft wide driveway & 14ft. wide curb cut on Lyncrest...

Mr. Liebman continues....stating there is driveway after driveway on Lyncrest and notes a double driveway down the street. There is very little that would change the character of this neighborhood.

Mr. Liebman continues....

Mr. Liebman notes they are looking at ways to better utilize the property, split the driveways on this large lot, reduce impervious along Willow and create more grass area in the back...

His clients are trying to create a better living environment and tried not to place any impact on the surrounding properties...

Mr. Liebman reviews the variances in which they are seeking approval. Also noting they are attempting to correct the history of the property and have an accurate record as reflected, today or anytime in the future.

Mr. Liebman completes his summarization.

Mr. Newman (Chairman) states to Mr. Liebman that two curb cuts have always been a very difficult thing for this Board to swallow. Approving two curb cuts is extremely rare. He has not heard testimony regarding alternatives to what is being proposed. He would like to ask a few questions about possible alternatives and what Mr. Rigg thinks...

Mr. Newman states; Alternatives to having two curb cuts and alternatives to having impervious coverage being as high as 40.5%.....maybe we can get it lower and still walk away having the applicant still have everything they need.

Discussion....

Mr. Newman questions the driveway on Willow Street and asks; if the driveway were to be expanded to the edge of the house and they granted variance relief for the width of the curb cut to match, would this come close to housing the number of cars existing. Would it be adequate for the applicants need and thus eliminate a second curb cut which would cause a couple of problems that were already addressed this evening.

He does like the idea of the pavers even though, notwithstanding his earlier comment; you really can't get credit for impervious coverage with the pavers but he certainly thinks with his knowledge of the Annual Reports and the current discussions, it is within the spirit of what this Board would eventually like to see some Ordinance reflection of...but none of the members of this Board know what this is...it is a general recommendation we make each year..

Mr. Rigg (Engineer for the Applicant) reviews the plans noting it would be very hard expanding the driveway to the edge of the house because of the tree.

Mr. Newman requests a picture of this tree.

Discussion continues....

Mr. Newman so notes the size of the tree and states it is a big tree...

Mr. Puzio (Vice Chairman) asks if they could expand the driveway to the rear of the property, to the East. There is certainly enough of room going by scale.

Discussion & suggestions are reviewed.

Mr. Liebman (Applicant's Attorney) states he would have to speak with his client in regards to this modification suggested...

Mr. Newman also has another thought while looking at the pavers around the pool and the stone area that is between the pool pavers and the driveway. If all of the Macadam driveway is going to be removed to create this play space, he would think it would behoove the applicant and also make it aesthetically pleasing around the patio of the pool to continue with the natural curved shaped of the pavers around the pool and continue it into the house, cutting off the squared edge that is currently closed in by the final fence thus eliminating a fair amount of impervious coverage and bringing those numbers down a bit and also taking the driveway suggestion will also reduce the impervious coverage numbers as well.

Mr. Newman continues...those are his suggestions for thought. He would also suggest, although the Board cannot mandate it, he would ask that for a condition of approval, since we are moving fences, that the fence situation with the neighbor be corrected and be pulled in where it needs to be.

Mr. Newman asks if any Board Member has comments relating to his comments, questions or thoughts. Seeing none,

Mr. Liebman (Applicant's Attorney) asks to go over again what it is the Board suggests...

Mr. Newman gives Mr. Liebman a sketch ...helps gets the numbers to where we would like to see them.

Mr. Newman asks if his clients are here tonight.

Mr. Liebman states no but he would like the opportunity to review this change which he feels is significant with his client before making any decision.

Mr. Liebman asks for a recess to call his client.

Mr. Newman states he will move forward with the other applications while he does so, but before doing so, Mr. Newman as if any Board Member likes or dislikes the ideas he has proposed to the applicants.

Discussion....

Mr. Liebman agrees to recess and the Board could go to the next application while he calls his client.

Recess: 5 Minutes.

Mr. Newman calls the meeting back to order.

ROLL CALL: Mr. Sina, Mr. Lancaster, Mr. Puzio, Mr. Meer & Mr. Newman.

Mr. Liebman comes back to the podium and states it is too much of a change to try to explain over the phone and would take some time. He feels the changes do not make sense but in reference to the Board working with us, we have been trying for a long time to come up with solutions... We ask that we carry the hearing to the next Public Meeting date to give us time to see what we could do to come up with other solutions,.

APPLICATION #13-018, CARRIED TO SEPTEMBER 30, 2013
No further notice of this application.

Mr. Newman moves to the next application & asks to call the Roll again since 4 previously recused members have returned to the dais.

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

Residential New Business:

1. Application #13-022, Karen Krane and Neil Goldberg
2 Audubon Place, Block 3708, Lot 6, Zone R-1-3
Proposed 300 square foot patio would increase the impervious coverage from 51% to 57% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Karen Krane & Neil Goldberg (Applicants)
2 Audubon Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Lowenstein (Board Member) recuses himself from this application.

Mr. Newman asks the applicants what brings them here this evening.

Ms. Krane begins her testimony by stating it really is simple...we would just like to extend our patio 300sf. We live in Radburn and it is very small. It's on a larger size for Radburn but still small. Explains....

Mr. Newman states it is not that small for Radburn or Fair Lawn. It is an average size lot. Being in the R-1-3 6500 square foot zone, it does make you an undersized lot in the zone with a fairly significant amount of impervious coverage currently.

Current impervious is 51%. & you want to go to 57%...

Mr. Newman reviews the photographs submitted with the application and asks Ms. Krane to describe them.

Ms. Krane explains she just took general pictures of the property because they were required with the application.

Mr. Newman clarifies with the applicant. They are not looking to remove impervious coverage; they are looking to add...

Ms. Krane acknowledges this is correct.

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

Mr. Puzio questions (inaudible)...

Ms. Krane clarifies this...

Mr. Meer (Secretary to the Board) questions the material to be used in this proposal, will it be concrete?

Ms. Krane states it will be pavers.

Discussion regarding pavers...

Ms. Krane notes Radburn approval with the application.

Mr. Sacchinelli (Board Member) questions the size of the patio...would like clarification on why they went 15ft out.

Ms. Krane explains there are shrubs on the other side and she did not want the patio to be close to the shrubs.

Mr. Sacchinelli asks do they need the full 15ft...

Ms. Krane explains; she wanted to extend the patio and did not want to get to close to the property....

Mr. Newman again asks if there are any thoughts to removing any existing impervious coverage.

Ms. Krane explains the way the patio is configured now, on two sides of the family room, there is an entryway...if they took away that they would be walking out into the grass.

Discussion continues....

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

Mr. Newman closes this portion and states he wishes he had some specific suggestions for them, but unfortunately he does think there is a lot of impervious coverage. He would not consider this a significantly undersized lot, although it is an undersized lot, granted. It will be taken into consideration to an extent...

Ms. Peck (Assistant Zoning Officer) interjects and states she did the numbers on a 6500sf lot...explains...

Mr. Newman explains to the Applicants what Ms. Peck was just doing...if they're lot was conforming, the amount of the impervious coverage they have and the percentages would work out existing what they have today would cover 39.2% of a 6500sf lot. What they are proposing would cover 43.8% of a 6500sf lot. Still a pretty big number...

Discussion continues...

Mr. Seibel (Board Member) questions the existing patio and what material this is made out of.

Both applicants respond, Pavers.

Mr. Newman notes to the applicants they have heard the concerns of the Board. It leads them with two options, proceed with the application as is, or consider altering it in some

way to reduce the impervious coverage. Our concern is the amount of impervious coverage.

Mr. Newman states they could do this tonight before our voting or consider coming back with a revised plan.

Ms. Krane offers to reduce it by 5ft...

Discussion...

Mr. Newman asks if they could remove a part of the existing patio.

Ms. Peck (Assistant Zoning Officer) does calculations..

Mr. Meer (Secretary to the Board) asks Ms. Peck what the numbers would be if this were reduced to a 250sf patio.

Discussion...

Driveway is discussed & partial removal...

Ms. Peck notes to be careful taking away driveway space...

Discussion continues....

Ms. Krane offers the 5ft. which would bring the impervious down to 55% from 57%..

Mr. Newman clarifies with the Board the Applicants are seeking to amend the application to a 200sf patio rather than 300sf...variance relief of 55% impervious coverage.

Ms. Krane concurs.

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

Mr. Meer makes a motion to approve the application with the amendment noted.

Mr. Sacchinelli seconds the motion.

VOTE: Mr. Sacchinelli, Mr. Seibel, Mr. Gil, Mr. Sina, Mr. Meer, **YES.**
Mr. Puzio & Mr. Newman, **NO**

Motion Carries-5-2
Application Approved.

1. Application #13-023, Dana Meyer,
14-11 Elmwood Place, Block 4709, Lot 9, Zone R-1-3
Proposed expansion of driveway to 20' wide would increase the impervious coverage from 34.38% to 39.09% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman states for the record that Mr. Lowenstein(Board Member) has returned to the dais.

Mr. Newman swears in: Dana Meyer (Applicant)
14-11 Elmwood Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman asks to please state the reason she is here this evening.

Ms. Meyer begins her testimony explaining she is here to widen her driveway which would increase the impervious coverage. Explains...

Mr. Newman reviews the square footage of her lot and the zone she is in. Noting it is a big lot but a weird one...pie shaped with a large frontage and it would support a larger driveway easily.

Discussion...

Mr. Newman notes a larger driveway in the front would mediate the visual impact of a wider driveway...

Ms. Meyer agrees.

Discussion continues....

Mr. Newman asks if any Board Members have questions or comments.

Mr. Lowenstein questions her garage...clarifies she could fit two cars in the driveway with this expansion.

Ms. Meyer states one behind the other.

Mr. Lowenstein reviews her survey and notes it is an old survey, September 15, 1993- does this reflect the swimming pool?

Ms. Meyer states it does not.

Discussion.....

Mr. Newman asks if there are any 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 closes this portion.

Mr. Newman again asks the applicant if there is any other way to bring this impervious coverage down on the property. Is there any other impervious coverage on the property that doesn't necessarily need to remain?

Discussion with Ms. Meyer....Lot shape, etc...

Mr. Newman asks for a motion.

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

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

Mr. Lowenstein, **NO**

Motion Carries.
Application Approved.

1. Application #13-024, Helene Fitzsimmons
12-06 Hopper Avenue, Block 4606, Lot 3, Zone R-1-3
Proposed 227square foot patio would increase the impervious coverage from 35.6% to 40.40% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements

Mr. Newman swears in: Helene Fitzsimmons (Applicant)
12-06 Hopper Ave
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman asks Ms. Fitzsimmons to proceed and tell us why she is here this evening.

Ms. Fitzsimmons explains she would like permission for a patio to be installed in her backyard and according to what Ms. Peck told her it would bring her over her current impervious coverage.

Ms. Fitzsimmons states she does not have a garage and she has a driveway that has been there for as long as she has, 29years...she would like the patio to be able to put her Grill, a table and chairs, etc...

Mr. Newman reviews the lot size. 50x100 in an R-1-3 Zone & notes this would make her undersized for the zone...she also has a narrowly configured lot that the Builder ran a driveway all the way down to the back of her house. This adds up to a lot of impervious coverage with no fault of the Applicant.

Mr. Newman asks if there were ever any improvements to the property regarding the footprint or the impervious coverage...or is this as built?

Ms. Fitzsimmons states just a fence...& a Shed.

Discussion...

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

Mr. Newman clarifies with Ms. Fitzsimmons the patio would not encroach on the neighbor's privacy and it looks to be up against their garage primarily...correct?

Ms. Fitzsimmons states yes.

Mr. Newman opens the Application to Residents living within 200ft. of the Applicant for questions or comments. Seeing none,

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

Mr. Newman closes both portions and asks if there are any questions or comments from the Board?

Mr. Lowenstein (Board Member) questions Ms. Fitzsimmons on the Tax map contained within the application. Mr. Lowenstein questions Ms. Fitzsimmons if this document represents your neighborhood in terms of the blocks and lots set forth on it.

Discussion....

Mr. Lowenstein questions the square footage of each lot, the frontage & the depth, would she say that her lot is consistent with most of them in the neighborhood.

Ms. Fitzsimmons states minus the Garage....she does not have one.

Mr. Lowenstein reiterates, just the frontage & the depth?

Ms. Fitzsimmons states pretty much.

Discussion....

Home is similar to all the other homes in the neighborhood except for the Garage which is lacking...

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

Mr. Newman asks for a motion.

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

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

Mr. Lowenstein, **NO**

Motion Carries.
Application Approved.

Mr. Newman opens for Public Comment, Seeing none. Mr. Newman closes.

Vouchers:

1. Winnie Banta, Hetherington Basralian & Kahn, in the amount of \$816.66 for Professional services for the August 19, 2013 meeting.

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

VOTE: All Present – **AYE.**

Resolutions:

1. Application #2013-015, Niraj & Amita Patel, 11 Harris Place, Block 2708, Lot 5, Zone R-1-2– Proposed 2nd story addition & expansion of one car garage to two car garage- **Approved.**

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

VOTE: All Present – **AYE.**

1. Application #2013-020, Dmitriy Yermolin, 22-24 Raphael Street, Block 3326, Lot 5, Zone R-1-3– 6’ Fence where 3ft. is permitted- **Approved.**

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

VOTE: All Present – **AYE.**

2. Application #2013-021, George Iakobishvili, 5-03 Berdan Ave, Block 5618, Lot 4, Zone R-1-3– Proposed Addition, renovation & driveway expansion- **Approved.**

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

VOTE: All Present – **AYE.**

3. Application #2013-019, Juan & Luisa Hinojosa, 26-20 Kipp Street, Block 3508, Lot 30, Zone R-1-2– Proposed 12’x16’ Above Ground Pool- **Approved.**

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

VOTE: All Present – **AYE.**

Minutes

1. Mr. Puzio made a motion to approve the minutes for the May 20, 2013 meeting and Mr. Sacchinelli seconded the motion.

VOTE: All Present – **AYE**

Adjourn

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

TIME: 10:00 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk