

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of May 20, 2013**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on May 20, 2013

Acting Chairman Joe Meer 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. Blecher, Mr. Sacchinelli, Mr. Lowenstein,
Mr. Seibel, Mr. Sina, Mr. Puzio, Mr. Meer & Mr. Newman

Absent: Mr. Gil, Mr. Lancaster

Mr. Newman (Chairman) arrives 7:12 P.M.

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.

New Residential:

1. Application #13-009, Carrie J. Weiss/Stevens
13-05 Plaza Road, Block 3611, Lot 6, Zone R-1-2
Proposed removal of a side yard porch and replace with an addition would have
A side yard setback of 8.85' and 8.90' where 10' is required as per Section
125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Mr. David Stevens & Carrie Stevens (Applicants)
13-05 Plaza Road
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Stevens begins his testimony explaining they have an enclosed porch on the south side of the property. They are looking to tear down this enclosed porch, noting the porch existing is 9 1/2 ft from the setback. They are here for a side yard setback variance.

They would like to extend the home to where the enclosed porch is now and go up two stories. He states it would yield a bigger Dining Room which is desperately needed.

Mr. Stevens notes they live in Radburn which has very small rooms and small dining rooms...by extending the home they would be able to get a bigger dining room as well as a little study as you can see by the plans.

Mr. Stevens speaks to the 2nd floor and notes this would give them much needed closet space, a walk in closet and an additional bathroom.

Mr. Newman reiterates the variance...noting this is an addition that would have an existing side yard setback, however, not an existing footprint, not an existing structure. It will be a two story vs a one story...increasing the footprint but the setback remains the same...the same setback is why you are here...

Discussion.....

Mr. Stevens notes the north side of the house will not change at all. What we are doing is very minimal. The front of the home is going to have a projection that will come out approximately 9 1/2 ft..it is within the setback...

The entire footprint of their home is less than the neighbors to the left as well as to the right...

Mr. Newman asks if they have Radburn approval to which Mr. Stevens testifies yes.

Testimony continues....

Mr. Stevens notes the architecture will be consistent to when it was built. Cedar Style shakes on the roof...etc...same style, color as when the home was built in 1946.

Discussion of the lot size...

Mr. Newman questions Mr. Stevens if this new addition would prevent any light, air flow to the neighbors?

Mr. Stevens testifies no, most homes are not close enough to be impacted...he does not feel it would have any impact whatsoever.

No further questions from the Board.

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

Mr. Newman closes this portion.

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

Mr. Puzio makes a motion to approve the application.

Mr. Meer seconds the motion.

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

Motion carries.

Application Approved.

2. Application#13-010, Ardian & Anila Kalia,
32-12 Rosalie Street, Block 2309, Lot 1, Zone R-1-3
Proposed 6' fence in the front yard setback where 3' is permitted as per Section 125-38 fences and walls.

Mr. Newman swears in: Mrs. Anila Kalia & Ardian Kalia (Applicants)
32-12 Rosalie Street
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mrs. Kalia begins her testimony explaining why they are here this evening. They have an existing fence which is 3ft. and are requesting a 6ft. fence.

Ms. Kalia explains their back yard is open and has no door gate in front of their house or in the back. They would like to put a gate for the security of their two children. We would also like to put the 6ft. fence for our privacy. They are thinking of buying a dog also so they would need a fence.

Mr. Newman notes the reason you are here before the Board is you have an unusual situation, being you are a corner lot and the Borough considers this “two front yards”. The fence you are here this evening seeking variance relief is a 6ft. high fence that would front Rosalie Street?

Mr. Newman reviews the proposal to clarify with Ms. Peck (Assistant Zoning Officer) exactly what the proposal is....

Clarification made....

Discussion.....

Ms. Peck notes for the record, the Applicants are aware the existing fence goes beyond the property line and if the new fence is approved, they will bring it back to the property line.

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

Mr. Lowenstein (Board Member) reviews the proposal and asks Mr. & Mrs. Kalia in regards to the location of the 10ft. wide gate across the driveway, how will it open or swing, in towards the property or outwards, manual or not?

Ms. Kalia states it would swing outward and Mr. Kalia states manual.

Mr. Lowenstein continues his question in relation to the applicants giving thought or consideration to when you pull the car in, you would have to stop the vehicle, get out of the vehicle....

Mr. Kalia explains there is enough space for the car behind the door...

Discussion & clarification of the gate location and how it would be used.

Ms. Kalia explains they will park the car behind the door gate in the car port.

Mr. Newman notes Mr. Lowenstein's concern is basically, should they move it back towards the rear of the property a little...

Mr. Lowenstein's concern is yes, especially if they need to stop the vehicle...explains..

Mr. Newman explains to the Applicants Mr. Lowenstein's concern is for convenience and functionality. Is the gate too close to the curb and need to come in a little bit so you could pull in, open the gate and pull the car in....

Discussion...

Ms. Peck tries to clarify concern of Mr. Lowenstein. If it is a 10ft. wide gate, so it should be a 5ft. swing. The distance from the house to the property line is 12ft. which would be 7ft. if the gate is open and there is still another 2-3ft. of driveway....there should be enough room to pull the car out of the roadway

Discussion continues....

Mr. Sacchinelli (Board Member) has concerns with the car pulling in and wants clarification on dimensions again. A review of proposal is done.

Discussion continues...

Mr. Sacchinelli states his concern is every time they pull in and out, the car would be hanging in the street...

Discussion continues...

Mr. Sacchinelli asks why the driveway has to be blocked. Why can't the fence go up and meet the house.

Mr. Puzio(Vice Chairman) agrees and also has concerns and notes when you back up the car in the morning, you will not be able to see anyone walking up the sidewalk because you have a 6ft. fence blocking the view...having the fence go right to the sidewalk. Anyone walking that side of Rosalie, you would never be able to see them.

Mr. Kalia listens to the concern & offers to park the car inside the garage so they could have the view when they pull out..

Mr. Newman asks what type of fence they are proposing.

Mr. Kalia notes a solid PVC fence.

Mr. Newman states Mr. Puzio has a really valid point. There will absolutely be a view obstruction there.

Ms. Kalia testifies they will pull out very slowly and they would be able to see.

Mr. Puzio understands but notes the variance goes with the Land and it is a concern of the Board...

Mr. Sacchinelli also notes his concerns regarding this issue and states it also is a solid fence so there will not be a view at all.

Ms. Kalia reiterates how careful they are when pulling out backwards...

Discussion continues....

Mr. Newman notes to the applicants, no matter how careful you intend to be, something can always surprise you backing up and this is a concern.

Discussion between Applicants & Board Members...

Mr. Puzio asks if the Applicants would consider moving the 6ft. fence back to the house line. This would give you the benefit of a 6ft. fence but have it setback even with the house.

Ms. Kalia states if they set it back to the house, it would be a very small place. We are trying to create a back yard for the kids because the balls always go down towards Rosalie and they follow the ball and it's dangerous. This is why we are trying to do this.

Mr. Newman notes another option would be a chain link fence where you could see through...

Mr. Puzio states he has been to the property; there is a school two blocks away. He has concerns being the kids are up and down Rosalie all the time.

Mr. Puzio notes to the applicants; the only compromise is to move the fence. You would lose 10ft. but you would still have the 6ft fence there covering the rest of the property to keep it private.

Ms. Kalia prefers not to move the fence back. It does not work for them.

Mr. Newman speaks to the applicants and notes he will share something with them which may put some of this into prospective. Every year this Board prepares an Annual Report and for a number of years they (The Board) have addressed this "two front yard" issues because of 6ft. fences and have asked the Council to consider changing the Ordinance because as a Board and as a Whole, we feel people should be able to fence in what is acting as their backyard the same as everyone else should.

Mr. Newman continues; however, when you are before this Board for any variance relief, each application stands on its own merit and there are different issues with every single application regardless of how similar one may be to another.

Mr. Newman states they (The Board) have brought to your attention a very valid concern with your application. It does not sound like the feeling of the Board is to approve something they feel is obstructing the line of sight for any vehicular traffic backing out of your driveway, so you have been give two suggestions. One would be to maintain a solid fence, but move it back to where it would not create a line of sight issue or consider leaving the application as is, but with the stipulation you would only install a chain-link fence that would remain open so as not to obstruct the line of sight.

Mr. Newman continues to speak to the Applicants and notes they do not have to choose either of these options, but he wants to be sure the applicants have the opportunity before we attempt to vote to know where the minds and the hearts of the Board are and also give you other choices to amend your application this evening before we do go to a vote.

Ms. Kalia testifies she has seen properties on Rosalie Street, 6ft. fences and thought there would be no problems for them.

Mr. Newman reiterates; as a Board, generally speaking they do not think the 6ft. fence in itself is a problem, but each application stands on its own merit and in this particular case, there is a safety concern the Board has for not only a vehicular accident but pedestrians being struck by cars backing out of the driveway.

Mr. Kalia asks if using only the garage would help so the view of the fence does not affect anything...

Discussion...

Mr. Newman states he does not understand what is being said because you still would not be able to see a 5ft. or shorter child walking past the 6ft. fence no matter where the car is along the car port and driveway...

Discussion.....

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

Mr. Newman opens the application to Residents within 200ft. for questions or comments. Seeing none,

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

Mr. Newman closes this and asks the Applicants if they would like a moment to discuss this, he will do this. He cannot hold up the proceedings here and they have made it clear what the concerns of the Board are. He will not stop them from proceeding with the application as is and go to a vote or they can proceed with an amended application.

Mr. Newman explains to the applicants to bear in mind, if the application is denied, the only way you could come before the Board a second time is if you present what the Board would consider a substantially different application...explains in detail to the Applicants.

Mr. Newman also offers the applicants to adjourn their application for now, take as long as you want to discuss this, he will move on to other applications and when you are ready ...

Mr. Blecher (Board Member) asks what the distance is from the house to the sidewalk.

Ms. Peck (Assistant Zoning Officer) 12.6' to the property line...

Discussion...

Mr. & Mrs. Kalia are going to take Mr. Newman suggestions and discuss their options.

Mr. Newman takes a moment to speak to the Mr. & Mrs. Kalia and notes this is only coming from him... they could also discuss something in between what the Board has suggested...perhaps there is a middle distance we could all feel is safe enough where you would have a clear line of sight....

Mr. Dunay (Board Member) notes; in as much as the Board is uncomfortable allowing this particular side of the property to be fenced in given the visibility issue, there is another possibility where the applicant could request a variance which would be to have the other side of the property fenced in...fence in the alternate side of the property on 33rd st...

Discussion....

Ms. Kalia asks if it would not be approved with the 6ft. fence, can they do it with 3ft..

Ms. Peck offers to discuss their options with them outside and come back.

Mr. Newman asks if anyone from the Board has any objection to carrying the application until the end of the evening or until they have decided. Seeing no objections from the Board,

Mr. Newman moves to the next application.

3. Application#13-011, Michelle & Robert Defina,
33-02 Nicholson Drive, Block 2512, Lot 26, Zone R-1-2
Proposed Add-a-Level with Front cantilever would reduce the existing front yard setback from 24.60' to 22.26' where 30' is required. Would increase the impervious coverage 42.22% to 43.72% where 35% is permitted. Would maintain the existing side yard setbacks of 4.50' and 7.10' where 10' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Michelle & Robert Defina (Applicants)
33-02 Nicholson Drive
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Ms. Defina opens her testimony explaining they currently have a small cape with a front dormer and they are proposing to knock it down and putting a full add-a-level...

Ms. Defina notes per the requirements they have increased their impervious coverage and the front yard setback increased slightly and the existing side yard setbacks will remain the same but they are not within the conforming range...

Mr. Newman reviews the proposal...

Ms. Defina refers to the pictures of the block that were submitted with the application, stating a lot of the houses already have done this. They are not out of character of what the rest of the neighbors have already done with their homes.

Ms. Defina testifies the reason why they are doing it is because the home now only consists of two bedrooms and one bathroom. This proposal would increase it to four bedrooms and two bathrooms....they have one child but plan to have more and would require the space.

Mr. Newman asks if their Architect is here this evening, to which Ms. Defina replies; he is not.

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

Mr. Puzio (Vice-Chair) clarifies that the impervious coverage issue is not that they are changing the footprint of the house but it's the 2nd floor cantilever which caused the impervious coverage increase...

Ms. Defina states; correct.

Mr. Newman notes they are on a fairly undersized lot, in a 7500sf zone, they are barely Over 5000sf...property is narrow...

Ms. Defina states this is the first improvement they are doing to the house which requires variance relief.

Mr. Lowenstein (Board Member) notes to Mr.& Ms. Defina when he went by the property, he noticed there is quite a bit of concrete along the sides and towards the back of the property, would there be any consideration to losing some of this concrete to reduce the impervious coverage?

Ms. Defina states they had no plans to do this. Explains it is a walkway around their house which takes them from their front porch to their deck ...

Discussion...

Mr. Lowenstein asks for some sort of tradeoff....

Mr. Newman notes when he first looked at the application, he too was concerned with the impervious coverage numbers, but as Mr. Puzio had pointed out, the only increase in impervious coverage is the cantilever which in reality doesn't cover any ground at all so there will not be any change in runoff or water absorption which we normally are concerned with when looking at the matters of impervious coverage....

Mr. Newman continues to point out, this is an existing impervious coverage and is the way they purchased it...if we look at the building coverage, it's interesting to note they are under Building Coverage in an undersized lot so this is certainly a modest increase in the building itself...

Ms. Peck (Assistant Zoning Officer) notes for the records there was a correction to the impervious numbers, what they are really proposing 43.72%, not 44.72%...which is a one & ½ % increase...

Mr. Sacchinelli (Board Member) asks if there are any existing water issues at the house & if they are at a higher level of elevation than their neighbor?

Mr. & Mr. Defina both testify there are no issues at all with water and they are not aware of any elevation with their neighbor, she believes they are at the same elevation.

Discussion....

Mr. Newman clarifies with the applicants because of this add-a-level, will there be any obstruction of light, airflow, sound to any of the neighbors and is this in keeping with character with the neighbors?

Ms. Defina states definitely, the house will be more in character with our neighbors.

Mr. Newman asks if there are any other questions from the Board, seeing none,

Mr. Newman asks for any questions or comments from residents living within 200ft. of the applicant, 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 and asks for a motion.

Mr. Meer makes a motion to approve the application.

Mr. Puzio seconds the motion.

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

Mr. Lowenstein, **NO.**

Motion Carries.

Application Approved.

4. Application #13-012, Miriam & Shlomo Bashan,
9 Burlington Place, Block 3713, Lot 2, Zone R-1-3
Proposed conversion of existing garage into living space reducing the required off
street parking spaces from two spaces to one where two are required as per
Section 125-48.A. Parking and Loading areas C(1)variance required as per
Section 125-57.D.(1)[1]

Mr. Ira Levine steps forward to represent Mr. Shlomo as his Attorney.

Mr. Newman swears in: Mr. Sholomo (Applicant)
9 Burlington Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Levine opens his testimony explaining Mr. Shlomo is looking to convert his garage into a living space. There will be no outside alterations; the character of the house will still look like a Garage. As everyone is aware of, all the houses in Radburn are rather tiny.

Mr. Levine continues...the 1st floor has a kitchen, which is a Gallery with two seats and a counter; it does not have a Dining room. There is no place to entertain family or company. In applying for the permit, there is a requirement to provide two parking spaces according to the Borough Ordinance.

Mr. Shlomo is looking for a variance from the requirement of two parking spaces.

Mr. Levine does note, two cars can park behind one another in the driveway as it exists. Refers to pictures submitted with the application, noting there is no sidewalk on this street. There wouldn't be an overhang; it would not block any portion of the thruway...

Mr. Levine would like Mr. Shlomo to step forward & testify.

Mr. Shlomo steps forward and begins his testimony stating he is the owner of 9 Burlington place. Upon cross, he states they purchased this property two months ago and

describes the home being a small attached house with a small kitchen on the 1st floor and a small living room and a garage. It has 3 bedrooms and a bathroom. They want to convert the garage into a living space where a dining table could go and a small powder room.

Mr. Shlomo testifies the garage does not look like it was ever used as a garage. According to his neighbors, for dozens of years the owners were parking two cars there. He only has only one car and what they are proposing will be no obstruction to anyone....There is no difference visually.

Testimony continues....

Pictures are reviewed and discussed by the Board & Applicant.

Mr. Newman asks Ms. Peck (Assistant Zoning Officer) regarding the Borough Ordinance.

Discussion...

Mr. Levine speaks to the Radburn District and the small lots...

Mr. Puzio (Vice Chairman) has concerns with Emergency Vehicles being able to turn, he notes he was at the property with a small pickup truck and was barely able to turn the truck around to get out of the street. He feels Emergency vehicles would have an extreme time getting down the road and the space where the applicant says he can park two cars without blocking the neighbor's driveway is doable....

Mr. Levine states; even though the applicant indicates two cars would fit there or park a smaller car, he does not know but the application is for a variance to allow an internal change to the house with one car.

Mr. Puzio still has concerns. If the Emergency personal thought this were still a garage space and weren't able to get into the house.

Mr. Newman does not think they need variance relief for that. You are allowed to turn your garage into living space as long as the Construction Official had no concerns about it.

Ms. Peck (Assistant Zoning Officer) confirms this & explains what the procedure would be; permits, inspections, etc.

Mr. Sacchinelli has concerns regarding the future. The variance runs with the land. If he were to sell this property, most people have two cars or more, his case is unusual, having only one car...but what about the distant future?

Ms. Peck also states the other option suggested to Mr. Shlomo was to widen the driveway and go for an impervious coverage variance. The applicant chose this option.

Discussion continues...

Mr. Levine notes the Board could take notice that most people today use their garages for storage space rather than parking their cars...unfortunately it's a problem in the Ordinance certainly where there is a hardship on these houses in Radburn & many other houses, he's sure.

Mr. Newman asks for guidance from either Counsel or the Assistance Zoning Officer to weigh what real impact there would be if the Board were to waive a second parking spot required here. The only thing he could think of is if someone was living there and they needed to park more than one car, it may give them leverage with gaining a permit from the Police Department to park in the street...other than this, is there a risk this Board is taking by saying; you don't need to have two parking spots there?

Ms. Peck states she does not know if in Radburn you can get permission to park on the streets over there...

Discussion continues....

Mr. Newman asks if any other Board Member has thoughts as to what the impact would be.

Mr. Blecker (Board Member) does note, theoretically the next buyer can pick up the wood flooring which is proposed in the garage and do whatever they want if they choose.

Discussion continues....

Mr. Sacchinelli still has concerns with causing issues down the road.

Mr. Rosenberg (Board Attorney) clarifies the reason the applicant is seeking the variance from the Board is to recognize they could convert the garage, eliminate the 2nd parking space (the garage) required by the Ordinance. The Board is being asked to grant the variance so that if in the future, another owner or even the applicant, could park two vehicles in the driveway space you see on the plans...but the approval would run with the land.

Discussion...

Mr. Levine so notes it would become a Police Department issue if the car is parked in the street. Speaks to the concerns and issues with Emergency vehicles...

Mr. Sacchinelli understands this is the Radburn, but the applicant only owns 6ft. of driveway. He is already out into the street...how do we approving property he does not even own...

Discussion continues...

Mr. Levine explains if you were to drive down the street tonight, you would see many, many cars parked one behind the other. It becomes the way to dealing with the problem of living in a two car society when these homes were built 80 years ago...

Mr. Sacchinelli asks who plows this area...

Mr. Sholmo does not know the answer to this question. He has not been living there long enough.

Discussion continues.....

Mr. Levine does point out whomever had been living there for the past couple of years, and Mr. Shlomo testified there were two cars back to back...they had been in violation for years. He is not changing this violation, he is asking for a waiver from the requirement of providing an additional parking space...

Mr. Newman states the relief he is seeking would not have anything to do with the issues of the street. All we, the Board are saying in our relief is; he no longer needs to use his garage for parking. We are not telling him he can park anywhere else, or how many cars he could park anywhere else...clarifies...

The requirement in his zone is you need to have off street parking for two cars. It is a requirement for a house to be built. What we are saying is; you could remove one of the existing two spots (the garage) its permission not to be able to use the garage for parking...

Discussion...

Mr. Shlomo testifies the garage door will remain the same from the exterior...a wall will be removed on the inside but can be replaced anytime.

Mr. Meer (Board Secretary) questions Radburn approval regarding the interior changes.

Mr. Sholmo testifies Radburn has no concerns. If you are not changing anything from the outside, they have no issues.

Mr. Newman asks if either Mr. Levine or Mr. Shlomo know what percentages of the duplexes' in Radburn convert the garages into living space. Do you have any information regarding this?

Mr. Shlomo testifies; to his right...the neighbor has changed his garage into living space, explains on the other side of the street, they just changed their's recently. Mr. Shlomo states if he can say 30% he would be somewhere near a correct estimate.

Discussion.....

Mr. Newman asks the Board to take a minute before asking for a motion.

Mr. Newman opens the application for questions or comments to Residents living within 200ft. of the Applicant. 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.

Mr. Newman states if the Board does not feel the need to discuss this matter further, he will ask for a motion.

Mr. Blecher (Board Member) asks how it could they protect the next buyer of the house so they would know in advance this parking situation.

Mr. Rosenberg (Board Attorney) states; it would be a Deed notice...

Mr. Levine (Applicant's Attorney) notes the buyer would have the option of either converting it back or leave it as is.

Discussion...

Mr. Rosenberg explains the Ordinance requires this notice and he would hope the Applicant would agree, he would put this in a Deed so any future buyer would know they are only permitted to have one vehicle parked at the site, or convert it back.

Discussion....

Mr. Levine suggests the Building Department keep records with CCO's Inspections. He feels "Deed Restrictions" are owner risky, in his opinion...

Mr. Levine takes a moment to discuss this with his client, Mr. Shlomo.

Mr. Levine states; Mr. Shlomo has no problem with a “Deed Restriction” which would essentially indicate to any perspective Buyer, that there is only one parking space with the purchase...

Discussion...

Mr. Dunay (Board Member) speaks to the Chairman and suggests re characterizing the “Deed Restriction” because they don’t really know definitively that there is one parking space with this house...suggests characterizing what the Board knows, which is however many feet of space between the end of the garage & the property line...

Discussion continues...

Mr. Levine states the perspective future buyer would know this through a survey.

Mr. Newman clarifies the Board is not defining what is left for him to park. All the Board is saying is; you don’t need two places to park your car, you only need one...

Mr. Levine summarizes...he feels the applicant has shown there is no negative impact on the Zoning Ordinances or the Master Plan that is in the Borough of Fair Lawn. It has met the negative criteria, the positive criteria is it makes the house useful to the applicants.

Mr. Newman asks for a motion.

Mr. Lowenstein makes a motion to approve the application.

Mr. Meer seconds the motion.

VOTE: Mr. Dunay, Mr. Blecher, Mr. Lowenstein, Mr. Meer & Mr. Newman, **YES.**
Mr. Sacchinelli, Mr. Puzio, **NO.**

Motion Carries

Application Approved.

Mr. Newman calls Application #13-010, Ardian & Anila Kalia back to the Podium.

Mr. Newman reminds both Applicants they are still under Oath.

Mr. Newman speaks to the Applicants and asks if they have made a decision regarding their application.

Ms. Kalia states they have taken the Board’s advice and suggests moving back 6ft. or less if at all possible.

Mr. Newman clarifies. The Applicants are proposing to move the fence that fronts Rosalie Street back 6ft. from where they currently have it depicted on the survey.

Discussion amongst the Board....

Mr. Puzio (Vice Chairman) clarifies it would be a total of 8ft. clearance between the fence and the sidewalk.

Mr. Newman states it does seem to be cutting it a little close depending on the vehicle you drive...

Concerns are still viewed by the Board regarding view & clearance of the sidewalk.

Discussion continues....

Mr. Sacchinelli still has concerns in regards to backing up a car in the driveway...it would be in the sidewalk before being able to see anyone...

Ms. Kalia testifies there is enough of a view of the sidewalk to be able to see when backing up.

Mr. Newman agrees with Mr. Sacchinelli. He tries to visualize how far he would have to be in order to see the sidewalk...

Discussion continues....Suggestions are made amongst the Board Members.

Mr. Newman states to the Applicants, Mr. & Ms. Kalia that it's pretty much the consensus of the Board, they are going to have to be at least 10ft. back, if not the full 12ft. if you want the 6ft. solid fence. They could have the whole yard fenced in if they wanted a chain link fence, which would not obstruct any line of sight for them. No one here is opposed to that. It is up to them how much yard you would like...

Ms. Peck (Assistant Zoning Officer) clarifies with the Board Attorney; "Because we do not have jurisdiction over materials, if they choose the Chain Link, it would have to be put in as "Deed Restriction" that it would be an open chain link with metal slats.

Mr. Newman explains again to Mr. & Ms. Kalia, the proximity to an Elementary School makes this matter so much more real for your piece of property than maybe one that is nowhere near an Elementary School...he feels no matter what time of day you will be coming out of your house, you will be hitting your brakes a lot because of the children walking down Rosalie Street....this Board will not be comfortable approving doing something that may be a safety issue.

Ms. Peck clarifies for the applicants, they would have to move the fence back 10ft. from the property line to get a solid fence or if they choose to leave it where it is and use a Chain link fence with a “Deed Restriction”...

Discussion...

Mr. Dunay (Board Member) offers another nuance which leads to another issue...as he understands it, the gates that are proposed across the driveways are supposed to be 6ft tall. In fact, if a car were exiting, the gate would have to be open, which would create a line of site issue also....

Mr. Newman notes it as a good point and states it may be an unusual request, but they could require the gates to swing in and not out.

Discussion....

Mr. Dunay notes the key thing for the Board to determine is; its own suggestion is they be 10ft. from the sidewalk or property line...

Calculations with the open gate are discussed...fence has a 5ft. swing.

Ms. Peck clarifies all calculations with the 5ft. swing...

After all discussions, Mr. Newman speaks to Mr. & Ms. Kalia & states; let's be safe with the fence being 8ft. from the property line rather than 6ft. It is another 2ft. but he thinks it gives the Board the comfort level they are looking for there. You will be able to see what you need to see when you back out.

Mr. Rosenberg (Board Attorney) also notes with the Solid PVC that matches the gate proposed....

Mr. Kalia is not happy with this suggestion; he states he is losing a lot of the side yard.

Ms. Peck (Assistant Zoning Officer) suggests to Mr. Kalia they carry the application and gets some professional testimony that the Site Triangle is not impeding on the site...this is the only thing she could suggest....

Mr. Rosenberg notes it is always the applicant's prerogative. Speaks to the Applicants, they could adjourn; get an Engineer to help you lay the plan out. Demonstrate to the Board that it is a safe ingress/egress from the house.

Mr. Sacchinelli would also like to suggest they have the Gate swing in...

Discussion....

Ms. Kalia asks the Board if they could leave the existing fence as it is right now, at 4ft. and put the gate as presented.

Ms. Peck states the original was 6ft. If they want to amend it, they would have the Board approve the height of the current fence as existing...

Discussion continues...

Mr. Newman wants to know how the Board would know they don't have "line of sight" issues with a 42inch fence. He does not know if it would change the issue by keeping it at 42inches...

Ms. Kalia asks the Board if she can still keep the fence that is existing and close it with the door/gate proposed on the survey.

Ms. Peck explains to Ms. Kalia, in order to replace it, she would have had to have a prior approval or another approval from the Board. She does not know if there was a prior approval or not.....

Mr. & Ms. Kalia decide to discuss the suggestions from the Board on the side while Mr. Newman moves to another application....

Mr. Newman calls:

5. Application#13-013, Jennifer Bruseo & Kirk Shaw,
18-11 Landzettel Way, Block 1702, Lot 54, Zone R-1-2
Proposed in-ground pool with patio would have a 5' rear yard setback where 10' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Mr. Kurk Shaw & Jennifer Bruseo (Applicants)
18-11 Landzettel Way
Fair Lawn, N.J.

Mr. Lowenstein & Mr. Blecher both recuse themselves from the Application and step down from the podium.

Fees have been paid and there is proof of service.

Mr. Shaw begins his testimony. He explains they have a very small yard. They have pavers down, which do not show on the survey. There was originally a deck there. Explains they are within the 35% allowable coverage. They want to sink a pool into where the pavers are, not using anymore impervious coverage.

Mr. Shaw states it is the rear yard setback they are asking for. It is less than what we originally were asking for. They have a different pool company. He has a representative here tonight. The rear yard setback is 10ft & because of the size of the property, it should be 12ft. There is also an easement, 7.5ft on each side of the yard. They will go up to the easement.

Mr. Shaw continues....the pool would be sunk into the pavers and it will be 7'6". from the property line..

Mr. Newman clarifies; It will be 7'6" and not 5' as originally proposed.

Ms. Bruseo explains the 5ft. would have included the pavers, but it will not even go that far.

Discussion...

Mr. Shaw explains they went and picked the smallest pool possible to fit in this small space. Explains there is a brook on one side, an easement in the back.

Mr. Newman asks Mr. Shaw if the rear neighbor is the brook.

Mr. Shaw explains the side neighbor is the brook. There is a rear neighbor with a Gas pipe line in his backyard

Mr. Newman asks; You want to be right up to the Gas pipe line with your pool?

Mr. Shaw clarifies; the Gas line is in the next yard....

Mr. Newman reviews the survey and asks; the pool would be right up next to the easement?

Mr. Shaw notes they have no choice. This is the smallest pool they could sink in.

Discussion continues...

Mr. Newman notes he is confused by the pictures. It looks like the pool is away from the easement...

Further discussion & clarification of locations & setbacks.

Ms. Bruseo explains that the pipe is supposed to run right on the property line. ...we talked to engineering to be sure and they told us as long as we don't go pass the easement, they see no issues.

Mr. Newman clarifies it was the Borough's Engineer.

Ms. Bruseo continues to explain the plans in order to avoid further confusion, testifying the edge of the frame of the pool will be 7'6" ...everything would be inside of this.

Mr. Newman states this pool in reality would be at least 15ft. from the neighbor's backyard with the Easement in between the landscaping and such...

Mr. Dunay (Board Member) asks if there is any issue with the patio being in the easement.

Ms. Peck (Assistant Zoning Officer) states there will be no issue according to the Engineering Department...

Mr. Seibel (Board Member) asks if the Building Department is ok with this.

Ms. Peck states it has not gone through the Building Department as of yet until approval of the Board.

Discussion & review....

Patio setbacks are discussed....all setbacks are being met with the patio.

Mr. Newman asks if anyone from the Board has any other questions....

Mr. Newman opens the application for questions or comments to Residents living within 200ft. of the Applicant.

Mr. Newman swears in: Oleg Adraizov
42-16 De Bruin Drive
Fair Lawn, N.J.

Mr. Adraizov explains he just received notification by mail and unfortunately, no one came to my door and ask if it is ok to build a pool..he would like to see what is going on. He called the building department and it sounds like the pool will be on the other side of the property, not on his side but he would like to know exactly where it would be.

Mr. Newman explains to Mr. Adraizov he can view the plans now if he would like but also the plans are always available to view in the Building Department.

Mr. Adraizov explains he works and cannot make the Borough's hours; unfortunately...he gets out of work at 6. He would have liked for the neighbor to knock on his door and let him know something.

Ms. Peck explains the proposal with the homeowner, Mr. Adraizov.

Mr. Adraizov reviews the proposal and states he does not like it much but he has no issues with it.

Mr. Shaw (Applicant) for the record states he did attempt to knock on his neighbor's doors, there were no answers...

Mr. Newman notes to the Applicants, the requirements were met...there is no need worry...

Mr. Newman opens again to anyone living within 200ft. to speak. 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.

Seeing no other questions or comments from the Board,

Mr. Newman asks for a motion.

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

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

Motion Carries.

Application Approved.

Mr. Newman calls back Application #13-010, Ardian & Anila Kalia for their decision.

Mr. Newman states to the Applicants, regardless of what they decide. They have to do one or two things. You will have to put your motion forward for a vote in whatever way you would like to amend, or we have to adjourn the application for the evening.

Ms. Kalia states they would like to amend the application to setback the fence 10ft. from the sidewalk.

Mr. Rosenberg (Board Attorney) clarifies; the applicant is amending their application.

Mr. Newman asks the Board if there is are any questions or comments about this application as it has been amended to have the fence that fronts Rosalie will be no less than 8ft. from the front yard property line.

Mr. Lowenstein asks about the double gate....

Mr. Newman states as with the discussion earlier, it will not present a problem. It would probably open up at the same distance as the fence...it would not create an additional obstruction.

Mr. Lowenstein notes when they swing open and there is a 5ft. expanse???...

Discussion...

Mr. Lowenstein is concerned with the lack of expert testimony. They (The Board) are just speculating as to what is a safety margin...he is not comfortable with proceeding with this approval without knowing...

Mr. Sacchinelli also has concerns with the line of sight having a solid fence...

Discussion continues regarding the site issues....will the Board Members be comfortable without an expert opinion.

Mr. Newman states he is hearing concern from more than one Board Member regarding not having Expert testimony....it would be an additional cost to the Homeowner to have our own Experts or have their own Expert review the application...

Mr. Newman would like to poll the voting members of the Board as to whether or not they would be comfortable voting on this application without Expert testimony.

Yes Vote: Comfortable Proceeding, **No Vote:** Not comfortable proceeding.

VOTE: Mr. Dunay: Yes
 Mr. Meer: Yes
 Mr. Newman Yes.

Mr. Blecher: No
Mr. Sacchinelli: No
Mr. Lowenstein: No
Mr. Puzio: No

Mr. Newman speaks to the Applicants and explains the majority of the Board is not comfortable with voting, so he directs his questions to Ms. Peck (Assistant Zoning Officer) and asks what would be the most cost efficient way to do this? Would it be for our Professional to do this or theirs?

Mr. Rosenberg (Board Attorney) states the Board has the authority to ask our Professional for a proposal. This is what the majority of the Board is looking for. The application is not a Commercial application, this is a Residential application. He should be able to get a proposal back immediately and hopefully get the applicants back next month.

Discussion....

Mr. Newman explains all to Mr. & Ms. Kalia. The decision that has been made is that the Board wants to hear from a Traffic Expert whether there is an issue with the line of sight, and if there is; how far back the fence has to go. Hypothetically, it could end up working to your favor if the Engineer states there is no issue at all with your 1st proposal....or anything in between.

Mr. Newman continues in detail explaining they could seek a Traffic Consultant on your own and see how much it would cost....We are asking for our Traffic Consultant to give you a price and whichever you choose, we need a report as to what their recommendations are so anything we approve, we are approving with confidence. We are not denying the application, it is on hold..

Mr. Newman carries the application to June 17, 2013.

6. Application#13-014, Tobi Marrone,
2-41 35th Street, Block 2316, Lot 1, Zone R-1-3
Proposed repaving of existing driveway and proposed second driveway would increase the impervious coverage from 29.97% to 36.46% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements. The proposed second driveway would create two curb cuts where only one is permitted as per Section 125-48.C.(7) Parking and loading area.

Mr. Newman swears in: Ms. Tobi Marrone
2-41 35th Street
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman asks Ms. Marrone to please tell us why she is here this evening.

Ms. Marrone begins her testimony explaining she has been in her home for 22years and her Ex-In-Laws were there 10years prior. She is not sure who put in the second apron but she has had two working usable driveways for at least 30years.

Ms. Marrone states most of her neighbor's state it has probably been there for almost 50years ago.

She is here because she went to the town to get a permit to pave the driveways because she has multiple vehicles and she needs to use the driveways.

Ms. Marrone refers to pictures...She mentions they were thinking of widening the driveway in the front of the house, but states after considering this, they realized the driveway comes forward and all you would be looking at is cars and it would literally butt up against her neighbor's hedges which they don't want.

Ms. Marrone states what she wants to do is take away the walk, add more grass, do a few pavers leading to the driveway from the steps in front of the house and she needs to be able to fit four vehicles on the Southern Drive part of the house.

Mr. Newman asks Ms. Peck (Assistant Zoning Officer) if they have two front yard setbacks here.

Ms. Peck states they do and explains the application....stating when Ms. Marrone first came to get the permit there was no record of a second driveway....

Discussion.....

Ms. Marrone explains she is trying to be pro-active with the house. Trying to do a lot of things on the outside...one of them was to put the real driveway on the side of the house because it is facing everyone else's driveway on Southern. It would not be offensive to anyone.

Ms. Peck explains Ms. Marrone does not want to put a driveway off 35th Street.

Ms. Marrone explains this is so...you have to have one in front of the garage, but it would be narrow...

Mr. Puzio (Vice-Chairman) reviews the photos submitted with application and asks if she is leaving the two runners in the front.

Ms. Marrone explains they are going to pave it, because she wants a blacktop and there are pebbles...she wants to make it look more appealing.

Review of photos & discussion amongst the Board Members.

Mr. Newman notes she does have an irregularly shaped lot.....

Discussion...

Ms. Marrone does not have any evidence or history to put forward regarding this second driveway...

Mr. Newman clarifies that there is no doubt of a second driveway existing, just doubt that it had been approved.

Ms. Peck states yes. There is evidence the curb cut was clearly there, the apron is there and there is evidence that gravel was left there...she herself cannot find any records..

Ms. Peck states another issue she had with this was the survey was dated in 2002 that was recertified to them and it did not show two driveways, only one. It should have been there.

Discussion...

Mr. Blecher (Board Member) questions if the Ordinance counts a gravel area as a driveway...he believes not.

Discussion continues...

Ms. Peck notes she went back into Tax Records and unfortunately it does not show any pictures in the Tax files....if you go by the pictures she has submitted, you can see it is old, the question is now to make it legal and make it wider.

Ms. Marrone notes she has been actively parking there forever..

Discussion continues...

Mr. Newman states it would certainly improve the look of the property..

Ms. Marrone counters with; 100%

Mr. Newman notes two curb cuts is something this Board has struggled with...
Explains...

Mr. Newman states it is a house that has a very irregularly shaped property with two front yard setbacks, one small driveway existing in front of the garage where it belongs and for all intensive purposes, the Board could consider this as a application for a second driveway...explains.

Mr. Dunay (Board Member) asks given the fact this driveway is as old as the applicant claims, could it be Grandfathered in under the Ordinance given it could predate the requirements..

Mr. Rosenberg (Board Attorney) explains because it's a prior non conforming structure, it would have to be proven by the applicant with competent credible testimony.

Discussion continues.

Mr. Sacchinelli (Board Member) questions visibility & if there are any blind spots when pulling in or out of the driveway.

Ms. Marrone testifies; No.

Ms. Marrone explains the proposal again to the Board.stating how much better the property would look with what they plan to do.

Mr. Newman asks Ms. Marrone based on her testimony this evening, this second proposed area that has been used for parking all this time has been your main driveway for parking since you have lived in the house all this time.

Ms. Marrone testifies yes.

Mr. Newman asks if anyone from the Board needs more information before they make any kind of decision on this application. Old Photos, Old Surveys? Anything you can think of you may want to see. Is everyone comfortable proceeding?

Mr. Newman rephrases and states to make it easier, is anyone from the Board not comfortable proceeding. Seeing none, Mr. Newman proceeds with clarification of the proposal...

Apron will be 20'
Driveway 20' wide or smaller

Mr. Newman asks for a motion.

Mr. Lowenstein motions to approve the application
Mr. Puzio seconds the motion.

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

Motion carries.
APPLICATION APPROVED.

Mr. Newman moves to Order of Business:

Mr. Newman calls for a motion for the continuance of Traffic Consultant, Mark Kataryniak to complete the Zap Lube Application.

Mr. Puzio makes a motion to approve.
Mr. Blecher seconds the motion.

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

Mr. Sacchinelli, **NO**

Mr. Newman opens for Public Comment, seeing none.
Mr. Newman closes this portion.

Resolutions:

1. **Application #2013-007, Katina Agalotis**, 2-02 Lambert Road, Block 5629, Lot 27, Zone R-1-3– Proposed one story rear addition- Approved.

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

VOTE: All Present: **AYE**

2. **Application #2013-008, Jared Port Vliet**, 2-02 35th Street, Block 2314, Lot 13, Zone R-1-3– Proposed second floor addition and 2nd floor cantilever- Approved.

Mr. Lowenstein made a motion to accept these resolutions and Mr. Dunay seconded the motion.

VOTE: All Present: **AYE**

Vouchers:

1. Winnie Banta Hetherington Basralian & Kahn in the amount of \$816.66 for Legal services rendered for May 20, 2013 meeting.

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

2. CME Associates, Peter Van Den Kooy in the amount of \$572.00 for Professional Services rendered for 15-00 Pollitt Drive-DaVita

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

VOTE: All Present – **AYE**.

Minutes

Mr. Lowenstein made a motion to approve the minutes for the March 18, 2012 meeting and Mr. Dunay seconded the motion.

VOTE: All Present – **AYE**

Adjourn

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

TIME: 9:55 P.M.

VOTE: All Present - **AYE**.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk