

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Of April 28, 2014**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on **April 28, 2014**

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. Seibel, Mr. Sacchinelli, Mr. Puzio, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh, Mr. Lowenstein & Mr. Newman

Absent: Mr. Gil, Mr. Blecher

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

Board Professionals: Board Engineer: Paul Azzolina, Traffic Engineer: Mark Kataryniak & Board Planner: Peter Van Den Kooy.

Mr. Newman asks everyone to stand to cite the Pledge of Allegiance.

**Residential Carried:**

1. Application #2014-02, Zilberman  
21-24 Christine Court, Block 1501, Lot 5, Zone R-1-2  
Proposed 12'x26' in ground pool and Two Story Addition. Would increase the impervious coverage from 31.2% to 41.9% where 35% is permitted as per section 125-12 Schedule of area, yard and building requirements. Would increase the FAR from 34.5% to 43.5% where 40% is permitted. Requires a D-4 FAR variance as per Section 125-57.D.(1)(d){1}

Fees have been paid and there is proof of Service.

Mr. Frank Hall (Architect for the Applicant) steps forward and passes drawings to each Board member for reference in a concern last month from a neighbor regarding run-off from this property onto his property.

Mr. Hall states in response to the concern, what they did was look at the total project and elected to provide some underground storm water retention in the form of a shallow Engineered system.

Mr. Hall reviews the drawings provided with the Board & explains this is one plan-a drainage (inaudible) indicated at the left rear of the property, a storm water system that provides a 153 cubic ft. for 1144 gallons of underground storm water detention which he did send to Mr. Azzolina's office. (Board Engineer) explaining that at first they designed a smaller system and got some feedback from Mr. Azzolina to enlarge it somewhat which they did do.

Mr. Hall testifies he now believes this represents a system that would meet or be consistent with the standard with the Municipalities that have a standard for storm water detention for single family residential properties.

Mr. Hall continues; Fair Lawn does not have a standard so there was nothing to measure it against in terms of the Ordinance here but we did provide something that looked to us to be relatively conservative and he believes it is consistent with what Mr. Azzolina asked us to provide after reviewing the initial submission.

Mr. Hall refers to the Calculations..

Mr. Newman (Chairman) asks Mr. Azzolina if he had a chance to review this..

Mr. Azzolina (Board Engineer) states the short history; following the last meeting, he had the opportunity to discuss the procedure within the Borough with Ken Garrison (Borough Engineer) as to any drainage review that he may have done through the Building Department over the years. He advised me he has not had any request to do any reviews, so as Mr. Hall stated, there really is nothing in the Code to define a standard to which you would design a system.

Mr. Azzolina continues; he visited the site. He notes he asked Mr. Hall if any topographic information was available for this lot, which could perhaps extend on to the neighbor's property, he advises me he does not have a Topographic survey, but just by eye it does appear the Applicant's is actually lower than the adjoining property so he feels the likelihood of run-off onto the neighbor's property would be remote, but not withstanding this fact, he did recommend they design a system, they left it a little open ended.

Mr. Azzolina states earlier today, he received an original design, which Mr. Hall had testified had a smaller capacity. He suggested he design it to handle the tributary roof area which is basically the back half of the total roof area which is the addition as well as the rear half of the existing dwelling which would be piped to this system.

Mr. Azzolina explains he did not get a chance to review the math associated with the design but it is the type of system that can be modified with adding more stones or chambers to obtain the necessary (inaudible)...by looking at this drawing provided-it is a little greater than 1000 gallons and with all the conditions considered, this design would adequately address all the concerns the neighbor would have regarding the runoff on his property.

Mr. Newman speaks to Mr. Hall and states; he pretty much made the bulk of his presentation last month but for the sake of everyone's memory, he asks Mr. Hall to give a recap of everything.

Mr. Hall reviews his Site Plan, explaining it will be a two story addition to the right rear corner of the home with a Pool and a Pool Patio proposed behind it. They are here because they need a variance for a FAR (Floor Area Ratio) and a variance for Impervious coverage.....the changes are to the back of the property.

Testimony continues....

A large portion of the additional FAR comes from the fact they have a larger than average Garage space which causes it to be counted as the FAR. The impervious coverage which is the biggest concern which he feels they have addressed with the Storm Water retention system...

Mr. Newman (Chairman) asks for the calculations of how this Storm water System could medigate run-off.

Mr. Hall testifies that medi gating run-off is a question of off setting impervious coverage...if they had a site that had no impervious coverage on it, it would be an (inaudible) the Ordinance permits a certain amount of impervious and since we are in excess of this, they decided to address the concern and provide this system...it shows how the capacity of the system is derived...

Testimony continues..

Mr. Hall states he does not have math that indicate that certain levels of water will pond or not pond on the property...they are offsetting square feet of impervious coverage with gallons of storage and doing this in the way which is consistent with most Municipalities throughout North Jersey.

Mr. Newman notes; there isn't a number of square feet that has been off set? This isn't easy to come by?

Discussion...

Mr. Hall states there is no absolute predictable condition that water will pond someplace or not pond someplace. They design based upon certain standards that will typically contribute to flooding or not contribute to flooding..

Discussion continues...

Mr. Newman states; it is safe to say though that with the addition of this Storm Water System, we are realistically looking at an impact, an impervious coverage impact that is not as great as 41.9% in reality. We cannot say what it is or how many percentage points were knocked off but something has been improved here.

Mr. Hall states absolutely...they are permitted to have 2940sf of impervious coverage, they asked for 4527sf which is 587sf in excess of the 35% but what they have provided is 2 gallons per square foot of excess impervious coverage. This would seem to him the conservative standard as compared to the existing, let alone the allowable...

Testimony continues....

Mr. Hall would also like to point out, the way the development seems to have been constructed, the low point between these homes, between Christine Court to the more (inaudible) place to the South, the low point is the rear property ones...it's not graded smoothly running out to Elaine Terrace but it has kind of created that because it is a Swale behind ...for the water to rise up to where it threatens one of the structures would have to be general area play, like rising up the Saddle River as opposed to just impervious run-off. There is quite a good deal of area that would have to be flooded in order for it to rise up off that swale between the rear properties lines leading all the way down to the East of Elaine Terrace.

This is altogether the conservative approach to protecting neighboring properties..

Mr. Newman asks if there are any questions regarding the new information.

Mr. Puzio (Vice-Chairman) would just like to clarify. Testimony stated the entire back of the house will be setup for this?

Mr. Hall testifies yes and refers to the drawings...the shaded area is the new addition and there are two dash lines coming off representing the roof taking the water from the entire addition....explains in detail...the whole back of the house plus the whole addition would be the tributary area going into this chamber....

Discussion...

Mr. Azzolina (Board Engineer) interjects and states he did the calculations and looked at the analysis and as Mr. Hall explained, this was the basis of him to ask Mr. Hall to increase the size because in his perspective, the system should be designed to handle the drainage area tributary to this. This design does do this.

Mr. Azzolina continues; regarding the grading of the sub division, he had the opportunity to speak with Ken Garrison and he provided him with a copy of the topography of the site from the 1960's and did indicate the design that Mr. Hall testified to regarding the common swale along the common boundaries between the two properties..

Mr. Sacchinelli (Board Member) questions the roof drainage. Where does the water lead out now?

Mr. Hall testifies it is all surface drain right now.

Mr. Sacchinelli questions maintenance of this system, if any.

Mr. Hall testifies the Stone and the Chambers themselves are all surrounded by filter fibers so that it does not get filled up with soot from the soil, this prevents them from having to dig up and redoing every few years.

Discussion continues....

Soil type is discussed....storage capacity, etc....

Mr. Hall states the only place the water can go from a system like this is to perk into the soil.

Discussion continues...

Mr. Hall reiterates they were not designing to a particular standard. They are doing a commonly accepted practice for single family residential projects as opposed to large scale commercial projects where they target a certain amount of storage. It is usually kept on a conservative side because they are not doing the kind of detailed calculations that are done on more rigorously designed systems knowing we have in that general area sandy soil. Sandy soil is a type of soil that drains readily so this would make this design even more conservative.

Discussion continues....

Mr. Sacchinelli questions if there is a guarantee that the neighborhood will not get water in a storm.

Mr. Hall testifies they do not guarantee specific results because we don't know what kind of particular storm will hit. It is approached from the standard from what is reasonable and what medi gates as opposed to guaranteeing they get another (inaudible)..

Discussion continues....

Mr. Newman (Chairman) as Mr. Hall already explained, what was followed was in line with standards of surrounding Municipalities who have set standards for residential parcels when it comes to storm water run-off and retention basins..

Mr. Azzolina (Board Engineer) also notes this is something you can do it in the manner he described where you do a perk test ahead of time. This system does not rely upon the percolation rate of the soil...explains the system.

Mr. Azzolina notes the system will work best if it is not encumbered by ground water condition which is something you would typically inspect at the time of construction. He will say there was no ground water condition at the time of his inspection a month ago and this time of year is the wettest time of year where you would see it evident.

Testimony continues...

Mr. Azzolina states it is something where you would do an inspection while the Contractor is there. If there is a high ground water condition, you would have to modify the system...

Discussion on how to modify...

Mr. Azzolina explains...

Discussion continues...

Mr. Hall (Architect for Applicant) respectfully adds they are designing a system that is not mandated by Fair Lawn's Ordinance. He recognizes they are asking for a variance in excess for impervious coverage but they are going beyond this to address all of the new impervious including the impervious that is less than the 35% . They are doing it simply because the neighbor asked them to address something, and they are trying to do what they believe is going to work.

Mr. Hall continues; they can keep discussing this subject up to the point where it could handle Tropical Storm Floyd but they are raising the bar that was not even in place when they walked in with the application last month.

Mr. Lowenstein (Secretary to the Board) states he would like to applaud the applicant. He thinks it is a very forward looking proposal to meet several different concerns of the Board and of the neighbor. He does have a question from a technical standpoint. Is his understanding this system is designed to be fed solely by these liters off the roof of the new addition?

Mr. Hall states this is correct. It does not have an area drain in the lawn to take water from there. It is generally more affective to take directly pipe water from impervious surfaces...and the impervious surfaces that work best to pipe it in are roof surfaces...

Discussion continues....

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

Mr. Racenstein (Board Member) asks Mr. Hall if he has ever thought of putting extra shrubbery at the rear of the building to absorb the water that falls...there are shrubs and trees to be planted that would take in a lot of the cup water..

Mr. Hall testifies this was not a way they approached this problem because putting it directly into a tank underground is much more effective than slowing it down.

Mr. Racenstein clarifies. He was speaking of both the shrubbery & the tank.

Discussion continues.....

Mr. Hall speaks to the Pool patio and there really isn't much room, etc....

Mr. Azzolina (Board Engineer) interjects and notes when he inspected the site, that portion of the common boundary is wooded. There are several trees and shrubs. He would describe this area as already landscaped.

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

Mr. Newman swears in: Israel Safier  
41-27 Egert Place  
Fair Lawn, N.J.

Mr. Safier states his property abuts the applicant's backyard. He notes he is hearing a lot of language he does not understand. Questions the system, location & how it is installed.

Mr. Hall explains the system is underground and lines the excavation. The Chambers are put in, the stone surround is put in and the filter fabric is folded over the top. It is under the soil.

Mr. Safier notes; at some point it must wear away. How do you know when it is time to replace it?

Mr. Hall testifies this is usually not a concern in the industry. It is made of material that is impervious to moisture and is shielded from Ultra violets. Just like PCP pipes underground and other materials underground we rely upon it...

Mr. Safier would like to know is this something that in 10years has to be replaced, somehow they must know.

Mr. Hall explains it is not an industry protocol to have a replacement schedule. There are companies that manufactured these products. He has been involved in many Site Plan applications, including large scale Commercial applications where things are rigorously analyzed and there has never been a replacement schedule.

Mr. Safier questions Mr. Azzolina (Board Engineer) asks Mr. Azzolina about his inspections during the course of construction, inspections when there is no high ground water? How does he attempt inspection when there may be high ground water? Does he go back on a surprise basis?

Mr. Azzolina answers by stating he would not go back on a surprise basis. He reiterates he inspected the site about a month ago, he did not observe any high ground water conditions.

Mr. Safier would like for the Board to see a picture.

Mr. Newman (Chairman) interjects with a question for Mr. Hall (Architect) If this application did not happen and there were no modifications made to this site, the run-off and the conditions that exist today in your opinion, is it greater or less than what the run-off would be with the installation of this system and the improvements that are being done.

Mr. Hall (Architect) notes this is a very good question & states again by conservative standards, by comparison to Municipalities where there is a standard, they have more than accounted for impervious coverage they are adding.

Discussion...

Mr. Newman after hearing all that Mr. Hall has testified too notes this is all they can rely on this evening. They can only rely on Industry standards. They can only rely on other Municipal standards that exist in calculations that exist. He does not think it is within the purvey of the Board this evening to question any of this or to try to come up with our own calculations/recommendations, etc. They can only rely on what has been presented.

Mr. Safier (Resident) has concerns with this, feels the Board does not represent the other places, so they have to make the determination of what applies to Fair Lawn and not the other places.

Mr. Newman states they cannot rewrite the Ordinance.

Discussion.....

Mr. Safier would like to submit a picture of what happened a month ago on March 29, taken at 6:58am.

Mr. Rosenberg (Borough Attorney) enters the picture as Exhibit O-1

Mr. Safier describes it as a picture of a neighbor's home...

Mr. Newman notes the picture is of water in a neighbor's yard but not his?

Discussion...

Mr. Newman asks if the neighbor who took this picture is here to testify. There is no evidence of what time this picture was taken, only hearsay.

Mr. Safier agrees, but the water is still there and with a bad rainstorm, he has water everywhere.

Mr. Zilberman (Applicant) objects.

Mr. Newman (Chairman) states he will not go back and forth between the two residents. They (the Board) have heard testimony from Professionals that the Applicant's property is lower than the Objector's property. He is looking at a picture with water in the Applicant's property, not the Objector's property as testified to from the Objector.

Mr. Newman passes the picture to the Board Members and asks them to comment if they see anything different.

Mr. Newman asks if there are any other questions or comments from Residents living within 200ft. of the Resident. Seeing none,

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

Mr. Newman gives a moment for the members to look at the picture to ask any other questions that may have of Mr. Hall or the Board Professional.

Mr. Newman so notes the Applicant can take a look at the picture & respond to it.

Mr. Zilberman after review of the picture comments his property and the Objector's property never had water between their properties.

Mr. Newman asks Mr. Zilberman what is this picture of?

Mr. Zilberman comments this is a house up at the corner & shows his property...

Mr. Newman asks if this water goes on anyone else's property or does it stay on your property?

Mr. Zilberman testifies it was always on their property.

Discussion....

Mr. Newman questions Mr. Hall and asks does he see any possibility the improvements and the storm water system could make this situation worse for the surrounding properties?

Mr. Hall reviews the picture and testifies it looks to him that the ponding area is where they are putting the system so there will be more (inaudible) in the soil underneath..

Discussion...

Mr. Azzolina (Board Professional) agrees with this and would like to make it clear for the record, he is not saying water does not collect here during a rainfall event which this picture clearly shows but this is how these properties are (inaudible) currently the roof drains from back of the subject's property as well as their neighbor's and drains to this common boundary, this is simply the overland flow from the roof areas to this point... It is not a clear swale so there will be some obstruction that hinders the flow until it has the opportunity to perk into it but with the introduction of the direct connection of the liters, he feels it would improve the conditions.

Discussion continues...

Mr. Newman would like to clarify for the record with Mr. Azzolina that it is safe to say from what he has reviewed, these properties were designed in the 1960's and this collection of water between properties is not a design but what actually engineered to be this way.

Mr. Azzolina testifies it was the intent.

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

Mr. Newman asks if there are no other questions for the Applicant's Professional or the Board's Professional, he will ask for a motion...

Ms. Peck (Assistant Zoning Officer) would like to put on record, Mr. Puzio (Vice-Chairman) listened to the recording from last month's meeting and is eligible to vote on this application. He has signed the certification.

**Mr. Lowenstein makes a motion to approve this application with the incorporation of the proposed improvements presented this evening.**

**Mr. Sina seconds the motion.**

**VOTE: Mr. Seibel, Mr. Puzio, Mr. Sina, Mr. Racenstein, Mr. Polhman, Mr. Naveh  
Mr. Lowenstein & Mr. Newman, YES.**

**Mr. Sacchinelli, NO.**

**Motion carries.**

**APPLICATION APPROVED.**

1. Application #2014-03, Nicholas & Jacqueline Messina  
12 Wyckoff Terrace, Block 1211, Lot 7, Zone R-1-3  
Proposed new covered front porch would reduce the front yard setback from 26.95' to 19.2' where 25' is required. Would increase impervious coverage from 38.6% to 40.1% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in: Nicholas Messina (Applicant)  
12 Wyckoff Terrace  
Fair Lawn, N.J.

Mr. Jacob Soloman (Architect)  
14-24 Plaza Road  
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman certifies Mr. Soloman as an Expert Witness in the Field of Architecture with no objections from the Board.

Mr, Soloman begins his testimony explaining the Lot is irregularly shaped, somewhat Pie shaped, Lot size 8387sf. The applicant is requesting relief from the Borough Ordinance, Section 125-12 in order to construct a one story roofed porch which would reduce the front yard setback. It would also increase impervious coverage, all other bulk yard requirements, side rear setbacks, building coverage, height coverage all conform to the Ordinance...

Mr. Soloman refers to two Exhibits, A1 & A2.

A-1-Existing Site conditions as well as the proposed Site conditions. Describes the proposed porch & states it would be across the front of the house with a depth of possibly 6.5ft.

Mr. Soloman refers to Exhibit A-2

A-2-indicates Construction drawings of the footings. The size of the porch plan as well as the proposed front elevation which faces Wyckoff Terrace. There are also some site photos of the existing dwelling with existing conditions.

Testimony continues....

Mr. Soloman feels in his opinion this variance could be granted without conflict or detriment to the Zoning Ordinance. The porch would not only provide shelter for the people who are approaching the dwelling in increment weather but also would be esthetically appealing to the residence. It reduces the scale of the dwelling down to more of a pedestrian level. It allows the occupants the opportunity to sit on the porch and interact with neighbors...

Mr. Soloman explains the impervious coverage increase is not caused by the structure of the porch, explains...

The concrete sidewalk running across the front of the porch which will be removed.

Mr. Soloman testifies the Applicant will re-install the perimeter planting bed around the front of the porch with the Mulch and the Flowers & Shrubs...

The style of the home is very similar to other homes in the neighborhood. The request for this variance is reasonable and would not be detrimental to the quality of life to the neighbors or to the character of the neighborhood. Feels the addition of the porch would improve the visual appeal of the home.

Mr. Newman (Chairman) has a question/comment. This Lot size is 8,387sf. It is quite a big lot for this Borough and it is already above the impervious coverage requirements. Refers to the previous application and notes the concerns of the Board regarding impervious coverage, etc...asks Mr. Soloman if he has any comments about the amount of impervious coverage on this site and what or how does he justifies this Board's approval of increasing the impervious coverage.

Mr. Newman explains, the Board looks at undersized lots and quite often they say; the Ordinance was written for 6500sf lots...their impervious coverage issue may not be fair to them, but when we are looking at oversized lots...

Mr. Soloman notes this is true.

Discussion continues...

Mr. Soloman testifies the Ordinance allows for a 5% Deck without a variance. The deck is open on all sides and the rain and water could wash through the Deck boards...

It will not be enclosed at all. It is all open/open railing & there is only 4 Columns supporting the roof and most of the roof is open. They are not looking to do an addition or expand the house...

Discussion continues...

Mr. Newman questions the materials being used.

Mr. Sacchinelli (Board Member) asks if this will be a raised porch...what will be under the Deck.

Mr. Soloman explains it will be dirt with a Lattice around the bottom of the Deck... & explains there will be a gap between the planks of the decking, it will not be a solid impervious deck.

Discussion continues...

Drainage is discussed...

Mr. Racenstein (Board Member) clarifies calculations.

Mr. Lowenstein (Board Secretary) notes the rationale underlying the application, talking about providing opportunity to sit outside & interact with neighbors...is there anything that prevents the applicant from putting a folding chair on the lawn.

Mr. Messina (Applicant) explains he will soon be of retiring age and he would just like to sit on the porch in a rocking chair and rock his life away.

Discussion continues...

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

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

Mr. Newman closes this portion.

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

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

**Mr. Seibel makes a motion to approve the Application.**  
**Mr. Racenstein seconds the motion.**

**VOTE: Mr. Seibel, Mr. Sacchinelli, Mr. Sina, Mr. Racenstein, YES.  
Mr. Puzio, Mr. Lowenstein & Mr. Newman, NO.**

**Motion carries: 4-3**

**APPLICATION APPROVED.**

2. Application #2014-04, Bill Otten  
13-02 11<sup>th</sup> Street, Block 5601, Lot 22, Zone R-1-3  
Property is a Corner Lot. An accessory located within the front yard setback requires 35'. Proposed Air Conditioner would be located 29.3' from front property line where 35' is required as per Section 125-33

Mr. Newman swears in: Mr. William Otten (Applicant)  
13-02 11<sup>th</sup> street  
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Otten explains he is attempting to install a Central Air Conditioner in his home and being on a corner lot the code requires a 35x35 offset which would put the Air Compressor pretty much in the middle of his yard so he is seeking to move it slightly into a little nook behind shrubbery that would make it 3ft to 3 ½ feet to what the Code requires.

Mr. Newman asks what street the Front Door faces.

Mr. Otten replies 11<sup>th</sup> and the side Hopper.

Mr. Newman clarifies the reason he is here is because the Borough considers Hopper another Front Yard for you and the setbacks you just mentioned are front yard setbacks even though it is your side yard.

Mr. Otten concurs.

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

Mr. Lowenstein (Board Secretary) would like to know if this is a one family or two family home.

Mr. Otten testifies it is a one-family.

Discussion.....

Mr. Newman asks if he would be within the requirements as they are related to 11<sup>th</sup> street.

Mr. Otten testifies yes.

Discussion continues.

Mr. Otten notes it makes the most sense mechanically to connect it to the attic and the basement where the Electric is.

Mr. Newman questions screening of the Compressor.

Mr. Otten testifies he will be screening it by a Shrub and should the Shrub move, he would put up a Lattice or some other type of screen.

Mr. Lowenstein notes it is screened by a Shrub and it is not visible from 11<sup>th</sup> or Hopper.

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

Mr. Newman closes this portion.

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

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

**Mr. Puzio makes a motion to approve the application.**

**Mr. Seibel seconds the motion.**

**VOTE: Mr. Seibel, Mr. Sacchinelli, Mr. Puzio, Mr. Sina, Mr. Racenstein,  
Mr. Lowenstein & Mr. Newman, YES**

**Motion Carries.**

**APPLICATION APPROVED.**

3. Application #2014-05, Sami Bindra  
7-15 Mansfield Drive, Block 3501, Lot 9, Zone R-1-2  
An Accessory located within the Front Yard setback requires 40'. Proposed Generator would be located 32' from the Front property line where 40' is required as per Section 125-33.

Mr. Newman swears in: Mr. Sami Bindra  
7-15 Mansfield Drive  
Fair Lawn, N.J.

Mr. Joseph Briganti (Contractor)  
59 Everdale Road  
Randolph, N.J.

Fees have been paid and there is proof of service.

Mr. Newman clarifies that Mr. Briganti is here testifying as a Fact Witness this evening, not as an Expert in Architecture, Engineering or any other Field.

Mr. Briganti testifies he is a Licensed Building Inspector in the State of New Jersey.

Mr. Newman asks if he will be testifying as such this evening or as a Contractor regarding the facts on the situation.

Mr. Briganti states as a Contractor.

Mr. Briganti begins his testimony and explains they put an addition/Renovation on this home and if they look at the original site plan/survey, they will see a Generator on it. The old survey does not show a Generator. The Architect marked it at 30ft. setback. They installed it at 32ft..

Mr. Briganti explains this was inspected by the Electrical Inspector, the Plumbing Inspector, the Building Inspector was around the house a few times. Now, it arises the Generator was never put on the Electrical Tech Sheet, so the Electrical Inspector told them to update the permit.

Mr. Briganti continues...he went to the Town and was told they were going to get a Summons, etc...his argument is; it clearly showed the Generator on the new survey. If it was missed by the Town, he does not feel it was not their problem and reiterates it was inspected by 3 Inspectors from the roughing to the final. It was noticed at the Final.

Mr. Briganti sent his son down to the Building Department to update the Tech sheet and it was not that easy. They now tell us it is a 40ft. setback from the curb. He brought it to the attention of the Architect and he states he never heard this.

Mr. Briganti notes it was a very reputable Architect, Glen Stubaus. He then went back to the Town and asked if there was an Ordinance and if it had ever been changed in Town and he could not get a answer.

Testimony continues...

Ms. Peck (Assistant Zoning Officer) interjects and states; with all due respect, the Generator was not on the Tech sheet....

Discussion...

Mr. Newman explains to Mr. Briganti it does not matter to him or the Board that this has been installed and they are looking at this retrospectively. He always says; they have to look at it as if it is not there right now, you want to put it at 32ft. so the Board would have to decide if it is reasonable to put it at 32ft. It is the burden of the Applicant to convince this Board there is actually a reason to do this and the reason would not be that it is already there or that it was missed or that it was or was not on the Tech sheet....

Mr. Newman states currently the Borough does not have a specific Generator Ordinance. However they look at Generators as an Accessory Structures and the Ordinance governing Accessory structures have this 40ft. setback, so this has been up to this point how the Borough has been handling Generators.

Discussion...

Mr. Briganti understands and testifies the setback is the problem because the basement is finished and if you move it an extra 5ft. they would have to increase the pipe size to an inch and a quarter. You just can't run a regular  $\frac{3}{4}$  gas pipe...explains...

He continues to state there is a series of windows on that side which will be more than 40ft. because it has to be 5ft from a window, so they can't put it there regardless. Where it is now is a perfect spot. It is hidden by a privacy fence and it is right next to the Electrical meter which reduces the size of the pipe of the Gas Line and also a large amount of wiring to go to the transfer switch.

Testimony continues....

Mr. Newman clarifies what Mr. Briganti has testified to and states; so in order to bring it any further and still keep the proper distance from the windows, you would have to bring it back quite a bit more than 40ft.

Mr. Briganti testifies absolutely. It would have to go to the rear of the home. Refers to the pictures, pointing out the series of windows at the location.

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

Mr. Sacchinelli (Board Member) questions the location of the Generator and clarifies from the picture this is where Mr. Briganti would want it.

Mr. Briganti states yes. He offered to disconnect it and take it off the premise when the Building Department didn't want to put it on the tech sheet. Mr. Rich Bolan, (Construction Official) did an inspection, saw it was disconnected and suggested I go for the variance.

Discussion continues....

Mr. Sacchinelli questions the situation with the Building Department.

Ms. Peck explains the scenario of how everything happened.

Discussion continues....

Mr. Sacchinelli clarifies what the distance is and reviews the survey with Mr. Briganti...

Mr. Briganti testifies they would have to destroy the basement which is finished to get to the Gas line. Discussed the size of the piping that would have to be used and does not know if it would work...

Discussion....

Type of piping is discussed and getting to the Gas Meter would be troublesome.

Mr. Lowenstein (Board Secretary) clarifies with Mr. Briganti that there is currently a 6ft. privacy fence directly in front so it is not visible from the street.

Mr. Briganti testifies yes. It cannot be seen from the road.

Mr. Lowenstein questions the level of density of noise when it is operating.

Mr. Briganti testifies it is very quiet. It is natural gas and has no muffler so it runs very quiet.

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

Mr. Puzio (Vice Chairman) questions the Generator's location again and notes it is screened from the neighbor's by a privacy fence and shrubbery.

Mr. Briganti testifies there is a privacy fence completely around the property.

No further questions from the Board.

Mr. Newman opens 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 defers to Ms. Peck to speak of the Annual Report & the recommendations of the Board that will be made to the Borough for a development of an Ordinance for Generators. Currently the Building Department has made a decision in the (inaudible) of all the installations of these Generators to use the Accessory Structure numbers.

Mr. Newman asks Ms. Peck if it is fair to say it was done out of necessity and perhaps once the Ordinance is looked at clearly the setbacks may be different from Accessory Structure setbacks and the requirements may as well be different.

Ms. Peck states based on the neighboring Towns, the Ordinance will be stricter.

Discussion continues...

Mr. Newman asks for a motion.

**Mr. Seibel makes a motion to approve the application.**

**Mr. Sacchinelli seconds the motion.**

**VOTE: Mr. Seibel, Mr. Sacchinelli, Mr. Puzio, Mr. Sina, Mr. Racenstein,  
Mr. Lowenstein, YES**

**Mr. Newman, NO.**

**Motion Carries.**

**APPLICATION APPROVED.**

4. Application 2014-06, Vincent Fantacone,  
1-14 Berdan Avenue, Block 5517, Lot 47, Zone R-1-3  
Existing non-conforming two family on a Corner Lot. Proposed expansion requires a D-2 variance expansion of a non-conforming as per Section 125-57.D. (1) (d){1}. Proposed addition would reduce the building coverage from 27.8% to 27.3% where 25% is permitted. Would reduce the existing impervious coverage

from 51.8% to 48.5% where 35% is permitted. Maintain the side yard setbacks of 4.84' and 5.09' where 8' is required. Maintain the front yard setback on 2<sup>nd</sup> Street of 14.29' and Berdan of 18.51' where 25' is required. Reduce the existing driveway to 28' where 22' is permitted as per Section 125-48.C (7) A 6ft. fence in Front yard setback on 2<sup>nd</sup> Street where only 3' is permitted as per Section 125-38 Accessory within the front yard setback of 20.53' where 35' is required as per Section 125-33.

Ms. Peck (Assistant Zoning Officer) explains to the Chairman the Applicant's Architect was supposed to be here tonight but could not make it, the Applicant wanted to start the application and if the Board wanted to hear the Architect, they will come back.

Mr. Newman swears in: Mr. Vincent & Cheryl Fantacone (Applicants)  
1-14 Berdan Avenue  
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Newman speaks to the Applicants, Mr. & Mrs. Fantacone and states; it is his advice, based on the application and the relief they are seeking to have their Architect present. He does not feel it will afford them any advantage time wise to start testifying this evening if they would still have to come back and go through everything again with their Architect.

Mr. Newman explains they would be carried to the next month's meeting, either way. It would be his suggestion they do their application in total with the Architect present.

Mr. Rosenberg (Board Attorney) would also like the Applicants to be aware that given the fact of the D-2 Variance, to do an expansion of a non-conformity, they would need 5 affirmative votes for relief and based upon what the Chairman has said, it makes sense to have a Professional with you when the application is presented to the Board.

Mr. Rosenberg does state to the Applicants it would be their decision. They could start the application if they wished, but reiterates what the Chairman & he recommends.

Mr. Fantacone understands and states if it saves time and asks if there are any questions he could answer now, he would be happy to do so.

Mr. Newman explains it probably would not save time & notes it would be a cleaner application. Explains this wording; this is a Board that does not guarantee the same attendance month to month & if we start any testimony this evening & they have different members, some may need to read transcripts, etc.

Mr. Newman continues, most of their testimony would have to be revisited by their

Architect and he does not feel they would gain much. As the Attorney has stated, it is your right to proceed, but he feels it would be overall in their best interest to start from the beginning with their Architect.

Mr. Fantacone agrees with this.

Mr. Newman announces the Application will be carried to the meeting of May 19, 2014 with no further notice necessary.

#### **APPLICATION CARRIED TO MAY 19, 2014**

**Mr. Newman calls for a 5 minute recess before proceeding to the Commercial Application.**

**Mr. Newman reopens the Meeting.**

**ROLL CALL: Mr. Seibel, Mr. Sacchinelli, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh, Mr Lowenstein & Mr. Newman-PRESENT**

**Mr. Newman for the Record states Mr. Puzio (Vice-Chairman) has left for the evening and has recused himself from this application.**

#### **Commercial Business Carried:**

1. Application #2014-01, Rici Realty  
8-20 Cedar Street, Block 5820, Lot 9, Zone R-1-3  
Change in use. Currently a non-conforming business use. Proposed to change use to a non-conforming Multi-Family use. Requires a D-1 Variance as per Section 125-57.D.(d){1} Amendment to Site and Parking requires a minor Site Plan variance as per Section 125-65. Existing building to remain and be converted to Four (4) Residential units. Would reduce the front yard setback from 7.6' to 4.7' where 25' is required. Would maintain existing side yard setback of 2.7' where 10' is required. Would increase the building coverage from 29.2% to 30.4% where 25% is permitted. Would decrease the impervious coverage from 93% to 80.1% where 35% is permitted as per Section 125-12. Driveway would have a 0' setback from property line where 1' is required as per Section 125-48.C.(7)

Mr. Levitt (Attorney for Applicant) steps forward and reviews with the Board the questions asked at the prior meeting regarding the prior use of the property. He states he had a chance to speak with Ms. Peck (Assistant Zoning Officer) from the Town.

Mr. Levitt speaks to a Document Ms. Peck has which he would like entered into evidence as Exhibit A-11.

Mr. Newman swears in: Ms. Ann Peck (Assistant Zoning Officer)

Mr. Newman notes for the record all Professionals have been previously sworn in.

Mr. Newman also reminds Mr. Levitt for the record, there is no new testimony after 10pm.

Ms. Peck begins her testimony stating she had a chance to go back into the files and was able to locate a Certificate of Occupancy dated December 3, 1970 issued to Morlite Sales for a Cinder Block Structure. As far back as she could note, the building was built in the 70's, (inaudible).....

Ms. Peck continues; she also found in the Zoning files, an application for a permit to add a Shed addition out the back for Storage of their equipment. This is the only records the Building Department have.

Mr. Rosenberg (Board Attorney) would like to mark this permit as A-12.

A-11-Certificate of Occupancy (CCO)

A-12, an Application for a variance dated May 7, 1980 for an 32x7 ½ rear open Shed Addition. Approved.

A-13-Minutes of June 2<sup>nd</sup>, 1980

Mr. Levitt would just like to add for clarification from the last hearing, there was discussion regarding the operations of Rici Construction in that Warehousing vs. Storage and what he would like to clarify is the prior use of the property was for Storage, with the definition that products would be bought from outside vendors and be stored at the property for the use of Morlite to be used on their own projects.

Mr. Levitt points out that Rici Realty in a Construction capacity would be doing the same thing. They would not be warehousing where materials would be bought from Wholesale and then sold Retail...

Rici Realty would be purchasing wholesale to be used on their own projects.

Mr. Levitt continues to explain if they were contracted to do a School, they would store roofing materials then bring it to the job site to be installed...

Mr. Levitt just wanted to clarify this piece of information because there was a little confusion regarding this.

Mr. Newman (Chairman) asks for clarification on something else. In the past when they have had similar situations with prior uses, they have required testimony from individuals who were knowledgeable about what went on at the site at that particular time...

Mr. Newman asks Mr. Levitt if he has any Witnesses who could speak to what Morlite did or is this speculative.

Mr. Levitt replies it would be speculative only in the sense of the collaborating evidence we would have would be the CO...

Discussion continues.....

Mr. Newman notes they will be hearing testimony tonight about what Rici may do or could do based on what Morlite did do, then this Board has to make a determination as to exactly what the prior use consisted of in order to determine whether or not, what is being hypothetically proposed...he will say because that is why they are here because the real proposal is a (4) family dwelling...

Discussion continues....

Mr. Rosenberg (Board Attorney) interjects and notes for the Record what Mr. Levitt has just said is they want to use this hearing among other things to try to establish the prior non-conforming Grandfathered rights that the new property owner may seek to avail himself of in the future...

Mr. Rosenberg states the testimony began with the information of what had occurred there, the problem he has is that they are not asking in the application to establish what the prior non-conforming rights are. The problem he is having and what the Chairman is alluding to is it would be unfair to the Board and the Public and even the client to try and claim "as table" at a later time against the Board or the Borough in terms of a determination of prior non-conforming status.

Mr. Rosenberg continues; this is not why they are here. He wants to make it abundantly clear, Mr. Levitt can proper testimony what he wants but he wants to make it clear to everyone that whatever he says as far as he is concerned and as far as the record is concerned, is not going to be an "as table" against the Board or the Borough and he wants Mr. Levitt's acquiescence and consent to this because that is not the nature of the application before this Board. They are seeking a use variance to change it to Multi-family. As the Chairman has said, what went on with Morlite sales in the past, not testimony is being prospered, we do not have witnesses to proper testimony and this Board has the ability and are not going to get into a situation 6 months from now or a year from now...whatever happens with this application, come back and claim an "as stable" against the Borough for Grandfathered rights on the property, because this is not the nature of the application you are presenting..

Discussion continues..

Mr. Levitt concurs with Mr. Rosenberg and states all he was seeking to do was answer the Chairman's question from the last hearing as to what could be done at this property. He was not proffering what was done, he asked what could be done and there was a detailed discussion regarding Storage vs. Warehousing and what it meant. He feels to Mr. Rosenberg's "as stable" argument, they have a CO which was proffered or which was entered into evidence as A-3 & A-2 at the last meeting which is the letter and application when Rici Realty bought the property...

Discussion continues...

Mr. Levitt states all he cares about is the Legal status and again he believes their Legal status by Exhibit A-3 & A2...

Mr. Rosenberg reiterates this is not the nature of the Application...they are not here to establish the non-conforming rights of Rici Realty.

Mr. Levitt concurs with this.

Mr. Newman has another related comment to this and states he is sure what they are going to hear is how this proposal is better than what could otherwise be based on the prior use, so you don't want to establish Grandfathered rights, so he does not see how this Board can sit and hear the application for a (4) family dwelling and compare it against nothing because they have not established what the prior use was.

Mr. Rosenberg does not disagree with this and information ally he (Mr. Newman) is absolutely right. This Board has the absolute right to ask questions and talk to the Public and get information. He just wanted Mr. Levitt to understand this Board is not going to make a determination on what the prior non-conforming rights are and then be "a-stopped" later on about this Resolution.

Discussion continues.....

Mr. Rosenberg (Board Attorney) is questioned on the meaning of "A-Stopple"...

Mr. Rosenberg explains...

Mr. Levitt (Attorney for the Applicant) interjects and states; with all due respect, isn't the current use a pre-existing non-conforming use that a CO has been issued? They have a pre-existing use non-conforming use as: Office use/Loading and Unloading Trucks- he is unclear as to what Counsel is saying....

Discussion continues...

Mr. Levitt after much discussion and clarification with Mr. Rosenberg reiterates this is not the application before this Board this evening. The application is to take a pre-existing non-conforming Commercial use and convert it to a (4) Family.

Mr. Levitt so notes the Chairman's point is very well taken, he would like to understand what is going on or what can go on at this property and his client can properly testify based on the CO he received as to what he is going to do there. If the Board then wishes to defer to the Zoning Office and say; this is a violation of the Zoning. This Board cannot determine this, that is for the Zoning Office to see the activities going on at the property and issue a Zoning violation.....

Discussion continues.....

Ms. Peck (Assistant Zoning Official) after hearing all debates states; she really doesn't know if it even matters tonight, because they are not weighing in on what the use is doing, they are weighing on the change...

Mr. Levitt respectfully disagrees...

Discussion.....

Mr. Newman (Chairman) after much debate states; he would think they have established the Ground rules and so states to proceed.

Mr. Levitt calls Mr. Seth Leeb (Architect for the Applicant) as his witness.  
Previously sworn.

Mr. Leeb steps forward and enters (4) new Exhibits into evidence.

A-14, Sheet A2 in the Pkg. Revised Drawings-Floor Plan  
A-15-Sheet A3- 3 of 4/Revision date of 4/17/14-  
A-16-Sheet A4 in Pkg. 4 of 4/Revised Elevations  
A-17-Small Color rendering requested by the Board of the proposal.

Mr. Leeb begins his testimony by stating at last's month's meeting, they listened to the Board's comments as to the Architecture of the 4 family house and how it related to the neighborhood. Also, the scale and the mass of the project as well as where the entrances were located.

Mr. Leeb refers to Exhibit A3 and explains what they had done. He reduced the house so it could access the front all the way through the back. This would allow fire access as well as one stairway inside to get up to the second level. They also added front porches so it would be more in line with keeping with the character of the neighborhood.

They reduced the scale- points to dotted line, explains. They moved the right side 2<sup>nd</sup> floor to reduce the mass so it is now in compliance with the setback..

They also reduced the canopy and roof overhang from 3ft. to 2ft. so it would be less intrusive. In adding a central hallway it allows to have the mailboxes inside so the mailman could go inside to one location inside the vestibule.

Mr. Newman questions the difference between a house and an apartment building.

Discussion...

Mr. Leeb corrects his use of “a house” and states he should be calling it a multi-family dwelling...

Discussion continues....

Mr. Leeb mentions one of the questions that was asked at the last meeting was because it is a (4) family, it needs to be sprinkled. It is a Sprinkler building.

Mr. Newman so notes it does not follow the Code of a Single family home, it follows the Code of Multi-Family dwellings of 3/4/24 or more units...

Mr. Leeb agrees and states anything over two family is considered Multi-family.

Testimony continues...

Mr. Leeb reviews all revisions with the Board. The side façade has changed and is more in symmetry...

They have eliminated the whole “Den” concept because of the concern and comments of possibly making this a 3<sup>rd</sup> bedroom- It is now officially a two Bedroom, the units are smaller now because of the central hallway and the reduction of the mass and the overall size of the Multi family dwelling.

Testimony continues...

Mr. Leeb states they are proposing to do more Earth tones. The color rendering he passed to Board members shows the house would have (inaudible) cement siding, shutters, projecting sills, trim around the windows. Gables with (inaudible) roofs. Again relating to the character of the single family homes in the neighborhood...

Mr. Leeb walks the Board through the previous calculations as opposed to the current changes...

Mr. Leeb walks the Board through the revised interior changes of the units...two bedroom units.

Mr. Leeb also mentions he had a chance to read the Ordinance regarding Green Building practices as well as Architectural Building Elements. He refers to the two Design Waivers they asked for, one being requested from Section 125-47.1. General Design standards for Commercial Mixed Use and Multi Family Residential Development- reads from the Ordinance the requirement for elevation which should be no less than 18” and no greater than 48” above the grade. The existing building sits on the grade so it does not meet this requirement & additionally they are asking for a Design Waiver from Section 125-47. 1. G#3 regarding the roof pitch-maximum roof pitch...

Mr. Leeb explains they have multiple roof pitches as opposed to doing a single pitch on this roof. The reason for this was to reduce the overall scale of the roof. Explains.....

Testimony continues.....

Mr. Leeb testifies he looked through all the Green practices of the Ordinance and mentions they have created a shaded area for the 1<sup>st</sup> floor occupants who have their own covered porches where they could sit outside and enjoy. The Engineer will talk more about the plantings, etc. They installed applicable windows as to the Green practices, which provide maximum lightening into the spaces and a number of things....they may if possible use recyclable building materials...but this is unknown at this time.

Testimony continues.....

Other than the two Design waivers they are asking for, they conform to all the other (inaudible)...

Mr. Levitt asks the Board if there are any questions of the Architect.

Mr. Lowenstein (Board Secretary) looks for clarification on terminology he is not familiar with regarding 10 on 12 -4 on 6?

Mr. Leeb explains it has to do with Roof pitch....explains.

Discussion continues....

Mr. Lowenstein asks Mr. Leeb if he has considered using Skylights anywhere on this project.

Mr. Leeb testifies no, they have not because of the depth & (inaudible) they do not like to put skylights on front of any type of dwellings because it is visible from the street. A lot of people do not like to see skylights in front so this would mean we would have consider them in the rear and in his professional opinion there is plenty of light from the proposed

windows. They are oversized windows and feels it would be unnecessary to put in Skylights.

Discussion...

Mr. Lowenstein asks if there could be a Skylight over the common stairwell.

Mr. Leeb testifies and refers to Exhibit explaining there is a window which would let light into the stairwell...he will look into this though, he would be open to this.

Mr. Lowenstein questions Solar Panels in this structure.

Mr. Leeb states they have not decided yet on the different types of high efficiency systems to use. It could be a possibility...especially in the sense of the orientation of the building and the shade cover, etc....

Discussion continues...

Mr. Newman asks if there are any other questions for the Architect.

Mr. Navah (Board Alternate Member) refers to the grade not meeting the requirements and what type of issues could arise from not meeting this requirement.

Mr. Leeb testifies it is an existing Masonry structure which means unlike a typical wood construction where there would be a wood floor where termites and different issues can arise where it's close to the grade... In this particular issue, it is a concrete slab and masonry, so you do not have the issue of the wood being close to the ground.

Mr. Leeb points to the Exhibit and explains there will be a door with a saddle and it is close to the grade-explains....Mr. Leeb in his opinion, feels it would help the needs of the handicap for accessibly being close to grade...

Concerns are discussed regarding snow build-up and rain with ponding issues because it is so close to the ground.

Mr. Leeb explains in the rear there is a sidewalk and it tapers down. In the front there is a sidewalk going out, so there is only an issue right at the door and it is a covered roof in both front and back and even if it were elevated, in the driving rain there is always the possibility of water going there...

Mr. Sacchinelli comments on Mr. Leeb's revised drawings & what a great job he did with the revisions. Also regarding the fact he got rid of the "Den" area where he had concerns regarding the possibility of making a 3<sup>rd</sup> bedroom.

Mr. Sacchinelli questions the Mechanical rooms proposed. There is no Central Boiler?

Mr. Leeb testifies this is correct, there is no Central Boiler.

Mr. Leeb answers Mr. Sacchinelli's inquiry to the Boiler's being in each apartment stating it may be this or a Central Mechanical Desk...

Discussion.....

Mr. Sacchinelli questions if there will be Chimneys?

Mr. Leeb testifies no. Most likely it would be Gas to the property. It would be a direct vent system. Whenever there is a direct vent, they do it out the back or go to the rear roof, never the front roof.

Mr. Leeb refers to the AC units shown on the plans so the intention is, these units would have heat in there..

Discussion continues...

Mr. Levitt (Applicant's Attorney) notes the questions regarding the Site Plan will be answered by the Engineer.

Mr. Seibel (Board Member) asks Mr. Levitt in regards to the application if everything remains the same except for the two Design Waivers.

Mr. Leeb reviews the changes. In the previous application, they were asking for; a decrease to the front yard setback because of the 3ft roof overhang. They are not doing this anymore. It would be a 2ft. Roof Overhang which is in conformance, so therefore the existing non-conforming front yard setback has remained the same.

Mr. Leeb continues. The existing non-conforming right side yard setback is maintained, however they are reducing it on the 2<sup>nd</sup> floor as he testified to. All the other variances, the Engineer will speak to.

Mr. Seibel reviews Building Coverage & Impervious coverage and asks if they will remain the same.

Mr. Levitt (Attorney for the Applicant) states they will not stay the same. The existing is 29.4%, proposed is 30.4%.

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

Mr. Newman asks if the Board Professionals have any questions for the Architect.

Mr. Azzolina (Board Engineer) notes it is not so much a question, but he thinks the Applicant's Architect has misinterpreted the Code. Explains...

The Section of the Code he is referencing speak of the Radburn Historic District. He does not believe this property is situated within what is considered to be Radburn. They are valid arguments that he is advancing, but he does not believe he has to request relief in regards to this...

Discussion.

Mr. Leeb (Architect) is not reading the same. Reviews with Mr. Azzolina the Code of the Borough of Fair Lawn....

Mr. Azzolina explains he was looking at a 2008 Code Book and stands corrected. He explains there has been revisions and he did not have a printed copy so he removes his comments.

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

Mr. Newman opens to Residents living within 200ft. of the Applicant for questions only for the Architect regarding what he has presented this evening.

Mr. Newman swears in: Robert Kuzmiak  
8-06 Cedar Street  
Fair Lawn, N.J.

Mr. Kuzmiak questions the newly revised Site Plan and pointing to the Exhibit's location in question asks Mr. Leeb is this would be the Front or the Back of the property.

Mr. Leeb explains that would be the Front, then explains in detail the newly revised plan.

Mr. Kuzmiak clarifies it now has a front door and has no further questions.

Mr. Newman swears in: Ms. Jaclyn Ebner  
8-21 Cedar Street  
Fair Lawn, N.J.

Ms. Ebner would like to clarify the Apartment building is now facing Cedar Street?

Mr. Leeb states; this is correct. It also has an entrance from the parking area and from Cedar Street. This is a change. At the last meeting, he heard a lot of concerns where the design didn't have a front door, it did not have a real presence and lacked some scale so they really tried to address these concerns and redesigned it.

Ms. Ebner questions the Design they are seeing tonight. Is the same width as the Building existing on the property today?

Mr. Leeb testifies this is correct...refers to Exhibit.

Ms. Ebner asks if he would be able to address the side setbacks.

Mr. Leeb testifies yes and explains referring to the Exhibit....

Testimony continues.....

Reviews all calculations with Ms. Ebner....

Ms. Ebner reviews the Roof line with Mr. Leeb.

Mr. Leeb explains they are not increasing the Roof run-off. It is presently a Flat roof. It is the same exact footprint. The Roof Run-off will not increase.

Discussion on where the Run-off would go since it is close to both property lines on both sides.

Mr. Leeb defers to the Engineer to explain.

Ms. Ebner has no further questions.

Mr. Newman asks if there are any other questions for Mr. Leeb regarding the Architectural Design from Residents within 200ft. Seeing none,

Mr. Newman closes this portion.

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

Mr. Newman closes this portion.

Mr. Leeb (Architect) summarizes his presentation stating he listened to some of the concerns of the Public and the Board at the last meeting and different issues that arose and how to make this Multi-family dwelling more in keeping in character of the neighborhood.

It is a 4 family, a Multifamily which is different from what is in the neighborhood to try and establish an Architecture that relates more to the Single Family houses in the neighborhood...

Mr. Leeb continues with his newly revised plan....showing all the changes in the Design noting it now looks what could be a Single Family house or two family house.

Mr. Leeb addresses the changes to the Interior Floor plan and finalizes his summary.

Mr. Levitt (Applicant’s Attorney) speaks to the Board and states because of the late hour would not start any new testimony. He speaks to being moved up in the Application process for the next hearing.

Discussion.

Mr. Newman explains the Commercial Applications are usually placed last in hearings because it would not be fair to Residents to sit and wait all night for their application to be heard with a lengthy application in the front.

Mr. Newman recommends a “Special Meeting” to be scheduled.

Discussion....

Ms. Peck (Assistant Zoning Officer) reviews all requirements with Mr. Levitt regarding Special Meetings...

Dates are reviewed with Ms. Peck.

Discussion on carrying the meeting to May until decision is made regarding a special Meeting...

Mr. Newman clarifies the Application will be carried to the meeting of May 19, 2014 with no further notice required...

Mr. Newman notes a Resident standing and tells him to come to the Podium if he has a question.

Mr. Kazmiak (previously sworn) has a question about the Grandfathering of the Building and doesn’t it make a difference on the Construction of the Building? It is his understanding if the Building is grandfathered, they cannot change the footprint.

Mr. Newman (Chairman) states this is not correct. Mr. Newman explains if they wanted to knock it, they could put the building anyway they wanted.

Mr. Kazmiak so notes this correction.

Ms. Peck discusses with the Residents the next meeting with the carrying of the application...explaining it may not be heard so to call the Zoning Office for clarification before coming to the next meeting.

Mr. Levitt reviews with Ms. Peck the options discussed earlier regarding re-notice and if there were any dates available before the next meeting scheduled.

Discussion continues...

**Mr. Newman announces the Application is being carried to May 19, 2014 with no further notice required.**

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

Mr. Newman proceeds to Order of Business.

Ms. Peck reviews the availability of all Board Members for a Special Meeting May 29<sup>th</sup>, 2014. Ms. Peck states it is a Use variance so she will need (7) Board Members.

Discussion on Attendance for a Plaque being presented to Mr. Joe Meer, recently retired.

Mr. Newman reviews with the Board the Annual Report before adoption of the Resolution.

**Mr. Newman calls for a motion to adopt the Resolution for the Annual Report.**

**Mr. Seibel makes a motion to adopt.**  
**Mr. Sina seconds the motion.**

**VOTE: All Present: AYE**

**MINUTES:**

- 1. Mr. Seibel make a motion to approve the minutes of March 24, 2014 and Mr. Sacchinelli seconds the motion.**

**VOTE: All Present: AYE**

Mr. Newman discusses Ordinance #2297-2014, the Borough adopted regarding the adjustment to impervious coverage for swimming pools and for Pavers is now official.

**Vouchers:**

1. Winnie Banta Hetherington Asalian &Kahn in the amount of \$816.66 for Professional fee for April 28, 2014 meeting.

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

VOTE: All Present – AYE

**Adjourn**

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

TIME: 10:20P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk