

Mr. Lowenstein (Board Member) announces he will recuse himself from this Application.

Mr. Newman advises Mr. Levitt (Applicant's Attorney) Mr. Lowenstein's recusal will leave only 6 Voting Members.

Mr. Levitt would like a word with his Client.

Mr. Levitt asks the Chairman & Board Attorney when the decision was made for Mr. Lowenstein to recuse himself.

Mr. Newman states this was a last minute decision because Mr. Lowenstein just realized a conflict minutes ago.

Discussion...

Mr. Rosenberg (Board Attorney) speaks to Mr. Levitt and tells him he has the right to proceed this evening and wait to ask for a vote when there are 7 Voting members. Explains the Board has 3 Alternates, Mr. Pohlman & Mr. Racenstein & Mr. Blecher. He could proceed with the Application, conclude the application and the other members could listen to the tapes so there would be 7 Voting Members, this is his absolute right.

Discussion continues....

Eligibility of members is discussed...

Mr. Rosenberg also notes to Mr. Levitt, the regularly scheduled meeting is August 25th so if he finished his presentation this evening, they would be sure the other members eligible would have listened and been qualified for the August 25th meeting.

Mr. Levitt (Applicant's Attorney) would like another moment with his client.

Mr. Levitt announces they will move forward with the application and exercise their right at a time there necessary to be exercised.

Mr. Newman clarifies and asks Mr. Levitt what he is saying is; he will decide whether or not he would want to go to a vote tonight or want to go to a vote after..

Mr. Levitt states; correct.

Pledge of Allegiance led by Mr. Seibel is cited.

Mr. Newman (Chairman) turns the meeting over to Mr. Levitt.

Mr. Levitt (Applicant's Attorney) before beginning his testimony, clarifies A-20 is the last marked Exhibit.

Mr. Rosenberg (Board Attorney) verifies this and notes A-21 would be the first Exhibit to be marked this evening.

Mr. Levitt also understands there has been a New Master Plan adopted by the Town. He would ask the Board if he could question the Board Planner if what affect, if any, this new Master Plan will have on this Application and if there is any point to be brought up.

Mr. Newman speaks to Mr. Van Den Kooy and states he has been previously sworn in for this Application and reminds him he is still under Oath. If he could address this situation and whether or not there are any changes that would affect this Application?

Mr. Levitt also would like to ask if there has been any report issued on this.

Mr. Newman clarifies. Report issued on what?

Mr. Levitt replies; report issued by the Town Planner to the Board.

Discussion.....

Mr. Van Den Kooy (Board Planner) begins his testimony referring to the New Master Plan both general and specific ones. Reads from Page 2, of the plan...goals and objectives. States for the most part they are general in nature but specifically there are some statements regarding the R-1 zones about setbacks, heights and coverage limitation and the like he mentioned.

Mr. Newman (Chairman) questions a portion Mr. Van Den Kooy read aloud. Something having to do with the R-1 zone should be restricted to single family dwellings only? How was this worded?

Review & Discussion...

Mr. Rosenberg (Board Attorney) would like to enter into Exhibit the New Master Plan.

Exhibit A21-New Master Plan adopted on June 23, 2014.

Mr. Van Den Kooy reads from the Master Plan, Pg. 2 under Goals & Objectives Land Use Plan Element "to preserve the integrity and value of existing residential neighborhoods. Reinforce bulk requirements to maintain existing patterns of development while still allowing property owners to improve and fully utilize their properties and by preventing the intrusion of inappropriate non-residential uses"

Mr. Van Den Kooy explains this is under the General Land Use Plan Element Goals and Objectives...

Review continues...

Mr. Van Den Koy refers to Page 46, he is not sure how relevant it is in terms of the specifics of an application but it states; the R-1 District is recommended that permitted uses be clarified as Detached-Single Family Residences, just to emphasize...as opposed to Two Attached Single Family Residences....reads on...Parking or storage of Boats, etc...be classified as Accessory & not Principal uses. Explains...the 1st part of this is the most relevant in terms of the permanent uses in the R-1 Zone being clarified as Detached...

Mr. Newman asks Mr. Van Den Kooy in his Professional opinion if this Master Plan perhaps goes a step further than the previous one toward protecting the Single Family characteristics of the neighborhood and discourages anything other than Single Family Dwellings.

Mr. Van Den Kooy replies yes. He believes it is more detailed and a more specific language which indicates to him there is much more emphasis on preserving the integrity of single family neighborhoods.

Mr. Seibel (Board Member) questions the Old Master Plan. Does this also mention the integrity of the area and single family homes?

Discussion continues...

Mr. Newman (Chairman) clarifies that the Old Master Plan in no way indicates anything other than Single Family Dwelling in the R-1 District but this New Master Plan just takes it a step further by clarifying the feel of the Master Plan..

Mr. Van Den Kooy concurs with Mr. Newman.

Mr. Levitt (Applicant's Attorney) would like to ask a question of Mr. Van Den Kooy and refers to conversation earlier where he would like clarification on a comment regarding the type of Development in the R-1. Did he say it was to strictly adhere to Single Family? He is a little confused on this statement...was it not a desire to create different types of uses within different Districts?

Discussion.

Mr. Van Den Kooy (Board Planner) reiterates what Page 2 states; "to preserve the integrity & value of existing Residential neighborhoods by maintaining the existing character of Residential neighborhoods in terms of scale & development and streetscapes by reinforcing Bulk requirements to maintain existing patterns of development while still allowing Property Owners to improve and fully utilize their properties by preventing the intrusion of inappropriate Non-Residential uses."

Mr. Levitt (Applicant's Attorney) would like to recall his witness, Mr. Walker from Dexter Walker who has been previously sworn.

Mr. Newman reminds Mr. Walker he is still under Oath.

Mr. Walker (Applicant's Engineer) begins his testimony by stating he does have a new Exhibit and should be marked into evidence.

Exhibit A-22-Revised Final Preliminary & Final Site Plan. (Colored Rendering)
Exhibit A-23-Dated Site Plan as Package.

Mr. Walker reviews the changes that have been made. Begins with the changes that were made with the biggest impact, the Architectural Plans. Explains the changes...refers to Exhibit and explains the Building itself has been made narrower and not as wide, from 60ft. to 51ft., the Driveway has been expanded so it now is 18ft. wide and would allow two cars to pass. Also, one of the neighbor's at the previous meeting was concerned about the current Drainage situation at the site so what they did was take the driveway which was on the property line and moved it over 2ft. from the property line and created a Green strip. They also placed curbing along the entire edge of the driveway adjacent to Lot 12.

Mr. Walker continues... there was some concerns regarding the slope of the driveway, it was inadequate and there was ponding, so by moving this driveway away from the property line it allowed them to pick it up, move it closer to the proposed Structure, allow positive flow towards the Street and around the entire parking area and driveway to be re-graded so drainage would be flowing to a infiltration area that is in the Green Strip in back between the pavement area and the rear property line.

Mr. Walker testifies they have also added a Dry Well for the roof run-off. They have gone above and beyond relative to their Drainage improvements, the width of the building is more in line with the neighborhood structures.

Mr. Walker explains Mr. Leeb will discuss the fact there were originally (4) Two Bedroom Units in the building, now there is (3) Two Bedroom units and (1) One Bedroom Unit. The intensity was slightly reduced. As a result of these changes, the building coverage has gone from 29.2% to 26% and the impervious coverage has gone from the existing coverage of 93% down to 80.1% so there is a substantial reduction in impervious coverage.

Testimony continues.

FAR was reduced from their previous plans of .52 down to .47- A reduction in the volume of the building as well.

Mr. Levitt asks Mr. Walker if he submitted the revised Site plan to the Municipality.

Mr. Walker testifies they were submitted. The Revision date noted as July 14, 2014.

Mr. Walker clarifies with the Board the revisions were received.

Mr. Newman (Chairman) notes the absence of the Applicant's Planner and asks Mr. Levitt if he has a question on Planning, who he should ask.

Mr. Levitt replies this is correct. He is away on Vacation. They were not planning on any further testimony from the Planner...

Discussion.

Mr. Newman will ask Mr. Walker the question and proceeds to state; he made it pretty well known at the previous meetings the sentiment of the Board, the number of units here was excessive and it was not in character of the neighborhood. He is pretty sure when the meeting closed, he asked if they would seriously take a look at this when going back to the drawing board, so his question is basically; in the process of widening the driveway and thus creating a need to reduce the Structure a bit, why are they still looking at (4) units, although one is smaller, rather than decreasing the intensity here and going with a Two-family or something which has much less intensity, really fits the character of the neighborhood and doesn't have 80% of impervious coverage...

Mr. Levitt (Applicant's Attorney) so notes this and states; it was the sentiment expressed previously, but he thinks he can address it. They are not basing or seeking on any Economic hardship for this variance. They understand the Board's sentiment and his. This is a business decision that was made by the Applicant.

Mr. Levitt notes without opening up a Pandora's Box, that his client could potentially use the property in its existing conditions, so this is his highest and best use of the property. Refers to the wording of the New Master Plan, made by the Board's Planner... "so allowing the Property Owners to make the highest and best use of their property." It becomes an economic game unfortunately in some situations.

Mr. Levitt asks the Board if they have any questions for Mr. Walker at this time.

Mr. Seibel (Board Member) refers to the words; "highest & best use" notes since there are several elements to highest and best use. Asks Mr. Walker how many elements they work with when looking at the piece of property to determine what the best use of that property would be.

Mr. Levitt replies; he is not sure they could answer this directly. One would have to take a look at what is pre-existing and what the long term goals are of the person who owns & is developing the property & how they want to use the property. In this particular situation, he cannot speak to every decision his client wants or what his vision is of highest & best use...

Mr. Newman (Chairman) asks Mr. Seibel (Board Member) is he sees some glaring omission that should be taken into consideration when looking at "highest & best use".

Mr. Seibel replies; when looking at highest and best use, you should look at it as; **AS IS**.

The building itself now-needs improvement & is vacant. Speaks to 4 Elements of the highest and best use:

1. If it would be physically possible.
2. If it would be financially feasible.
3. If it would be maximally productive
4. Is it legally permitted?

Mr. Levitt (Applicant's Attorney) states the highest & best use in this case may be to keep **as is**. As a Commercial, legally permitted use.

Discussion continues...

Mr. Levitt reiterates the Applicant feels the highest & best use is a (4) Family Residential property fitting in with the character of the neighborhood and changing it over. If they were to propose a Commercial building, it would be illegal. Explains, if the Land was vacant and they proposed a Commercial building, it would be illegal...currently they are legally on the property.

Discussion continues...

Mr. Seibel (Board Member) states this is the issue. 50 years ago, someone put an inappropriate Structure on a vacant lot and now we are trying to deal with it.

Mr. Seibel explains what he does not want to see happen is; take an inappropriate structure and put another inappropriate structure in its place.

Mr. Levitt understands what he is saying but reiterates what is legally there now and whether in the Board's determination, it is better to leave what is there. If the Board determines against the Master Plan, because he thinks the Master Plan is clear that in R-1 Zones, they want Residential, then they are left with a dichotomy on both sides of the spectrum of a Commercial building in the middle of an R-1 zone. The Board will have to decide whether it would be better to have a Commercial building that will be active, or make a Non-Commercial use.

Mr. Levitt continues...in a perfect world, if his client could build a Single Family home and sell it for \$4million dollars, let's do it. If the Town feels it would be a better deal, make the Applicant an offer...buy it and turn it into a single family, but it is not a vacant piece of property, it is a piece of property that had a high Commercial building put on it that is lawfully there as a pre-existing non-conforming use.

Mr. Levitt asks the Residents to think back when this Building was operational. Is that a better situation than having a (4) Family there...if the answer is yes, then the Board is left to their vote.

Mr. Newman (Chairman) states; he thinks the flaw in that argument is; it is being presented as if they have only the choice of A&B and not C. They all know there is C, D, E, F, G & so on...

Mr. Levitt (Applicant's Attorney) interjects to state he understands but what is being presented is A or B.

Mr. Newman understands and would like to move on but before doing so, he would like Mr. Van Den Kooy (Board Planner) to touch back again on Goal #1, page 2.

Mr. Van Den Kooy (Board Planner) reads Goal #1. Page 2 of the Master Plan under Land Use Plan Element again. "To preserve the integrity & value of existing Residential neighborhoods by maintaining the existing character of Residential neighborhoods in terms of scale, development and streetscapes. By reinforcing Bulk requirements to maintain existing patterns of development while still allowing property owners to improve and fully utilize their properties by preventing the intrusion of non-residential uses."

Discussion...

Mr. Newman clarifies the reason for asking to re-read this was because it was what he had suggested before since they are bringing up the Grandfathered use of the property. At one of the previous meeting, he had asked; what would prohibit improving the site to make the building look like a Single Family house while having the pre-existing Commercial use running out of it. In his opinion, looking at the Master Plan and wanting to maintain the existing character of a Single Family neighborhood, if they make this building look like a single family house rather than a (4) family dwelling unit, it would certainly maintain the character better...

Mr. Newman defers to Mr. Azzolina (Board Engineer) and notes since the Applicant's Engineer is here, he would like to open it up to him and reminds him he was previously sworn.

Mr. Azzolina (Board Engineer) states; the only comment he would offer after receiving the plans tonight and reviewing them briefly before the meeting is, he would agree with Mr. Walker as to the Primary revisions to the plan. There were issues that were raised in his initial report to the Board and he thinks the Plan has presented its improvements with respect to the Site development aspect of it than the originally presented drawings.

Mr. Newman swears in: Mr. Michael Drobny (Acting Board Traffic Engineer)
Sr. Project Manager for French & Parrello Associates
on behalf of Mark Kataryniak.

Mr. Newman asks Mr. Drobny is he would like to comment on the Driveway expansion or any other Traffic related issues here.

Mr. Drobny replies, in reviewing the file with Mark and looking at the newly revised plan submitted tonight, the one outstanding issue was the driveway. At previous meetings,

Mark had suggested the widening of the driveway to 18ft. to allow for two way traffic, which the Applicant has done on this revised plan. Other than this, the rest of Mr. Kataryniak's comments had been previously addressed.

Mr. Newman asks Mr. Levitt if there is anything else.

Mr. Levitt (Applicant's Attorney) would like to ask Mr. Walker about the revision to the Driveway size. Would it affect the movement of refuge in and out of the property?

Mr. Walker (Applicant's Engineer) testifies it will open up the driveway and give the ability to the Resident pedestrian if they were bring their garbage from the back area to the front. If there were traffic movement on the driveway, they could both pass freely and safety.

Mr. Puzio (Vice-Chairman) questions Mr. Walker on the previously proposed mirror system. Will this still be done?

Mr. Walker testifies there is no longer a need for this system. They analyzed the Site distance. They have had discussions with the Board, there is ample site distance. The fact the driveway has been widened, there will not be a need for the turning around movement if two cars meet so in his opinion, he does not believe it is necessary and may cause more confusion.

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

Mr. Seibel would like clarification on the Square footage of the building and the reduction proposed.

Mr. Walker testifies the existing footprint of the building is; 2412sf and the proposed is now; 2041sf.

Discussion....

Mr. Walker would prefer Mr. Leeb (Architect) to answer this..

Mr. Newman states if there is nothing else from the Board, he would like to open it up to the Public for questions for Mr. Walker.

Before doing so, Mr. Newman would like to remind the Public how it works...explains there was a lot of conversation tonight on the Application as a whole. He would ask they do not address any of this at this point in time. If they have a specific question for Mr. Walker based on his testimony tonight and not based on any of the discussions with Mr. Levitt. Just for structure, if they can come to the Podium with a question for Mr. Walker in relation to his recent testimony or something else of an Engineering aspect.

Mr. Newman opens the witness to Residents living within 200ft. of the Applicant for questions.

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

Mr. Kuzmiak's question to Mr. Walker is; since they widened the driveway, seeing it is a dead end street, does he believe two cars can get in and out at the same time because if there are two cars parked on Cedar Street, they cannot get by, one has to wait until the other gets by. He believes the widening of the driveway does not solve a problem of two cars getting in and out.

Mr. Newman (Chairman) would like clarification on this question. Asks Mr. Kuzmiak if his concern is not necessarily the 18ft. width but whether or not two cars going in opposite directions can negotiate in and out of any width driveway on Cedar Street?

Mr. Kuzmiak replies yes, because if one way is a dead-end, there is only one way out and if a car is coming in from the street, the other can't get by. There is no way to make the turns.

Mr. Walker testifies that Cedar Street is plenty wide to navigate two cars. He is confused.

Discussion....

Mr. Kuzmiak tries to explain the scenario of cars being parked, etc...

Mr. Walker testifies that Cedar Street is 30ft. wide which is a pretty wide street under the current Residential Site Improvement Standards. Typically on a street like this, the width would be 28ft.

Mr. Newman (Chairman) defers to Mr. Drobney (Acting Board Traffic Engineer) and asks if he agrees with this testimony.

Mr. Drobney does agree with it.

Mr. Sacchinelli (Board Member) asks Mr. Walker what the width of the existing driveway is. Does it have the ability for a truck to move around in?

Mr. Walker testifies it is 10ft. wide and yes it does have the ability for a truck to move around. It was a Commercial use, so trucks have been going in and out of the site for decades.

Mr. Sacchinelli asks if Mr. Walker thinks it is better to have a two car wide driveway than a single.

Discussion continues....

Mr. Walker states his testimony at the last meeting was; the one car width driveway was adequate and the whole change was predicated upon the comments of the Board's Professionals

as well as the Board Members. Notes Mr. Sacchinelli's point and states if trucks can make the turn in and out of there, cars should easily be able to make the turn.

Mr. Newman notes to Mr. Levitt (Applicant's Attorney) his client is raising his hand. Would he would like to bring him to the Podium?

Mr. Levitt asks for a moment with his Client.

Mr. Newman asks Mr. Kuzmiak if he has another question for Mr. Walker.

Mr. Kuzmiak (Resident) would like to explain. Speaks to his own driveway and states; if there is a car parked in front of his house, which there is sometimes and he goes to make a left on Cedar Street and another car turns into Cedar, he has to wait for them to go by.

Mr. Newman replies; he thinks his concern is clearly understood and he does not think anyone is arguing the difficulty of negotiation that needs to take place in that situation, but it has been testified to by both their Engineer and the Board Traffic Engineer, the street width is normal or slightly wider than normal so it does not seem there is anything particular about Cedar Street that would make it any more difficult than any other street. In general, he does understand what he is saying.

Mr. Kuzmiak thanks the Board and has no other questions at this time.

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

Ms. Ebner has a question for Mr. Walker about the driveway. The Math is just not working out for her. His testimony was; he subtracted 9ft. from the Building and the driveway as it exists now is 10ft., now there is 19ft. He stated they were talking about putting curbing there and 2ft. of grass of setback. She is wondering where all this is coming from.

Mr. Walker clarifies. The driveway is 10ft. but the setback from the property line to the existing building is 12.1ft...and the driveway varies in width slightly, but from the building to the property line there is 12.1ft so there is enough of room to do everything they are proposing to do.

Discussion....

Ms. Ebner would just like to say she has lived across the street for 40yrs and Trucks do go through one at a time, she can't tell you how many times they have hit the building because they could not maneuver and the fencing, which belongs to their neighbors, they have practically demolished the fence over the years so 10ft. is really not a lot.

Mr. Newman asks if there are any other questions for Mr. Walker from Resident's living within 200ft. of the Applicant. Seeing none,

Mr. Newman closes this portion.

Mr. Newman asks if there are any questions for Mr. Walker, the Engineer from the General Public. Seeing none,

Mr. Newman closes this portion and asks Mr. Levitt to proceed with his next witness.

Mr. Levitt (Applicant's Attorney) recalls his next Witness, Mr. Seth Leeb.

Mr. Newman reminds Mr. Leeb he is still under Oath.

Exhibit A24-Lg. rendering submitted to Board showing front elevation with a super imposed, existing structure to Lot 7-next door neighbor. Undated.

Mr. Leeb (Applicant's Architect) begins his testimony. He submitted the rendering in previous discussions and he had not done it in advance, so he thought it would be helpful to the Board to see what they were trying to do. Unfortunately, he has not had a chance to review the revisions to the Master Plan, but besides speaking to single family, it also talked about scale & character and how it should fit into the neighborhood.

Mr. Leeb states; we all agree, it is a (4) Family. It is not a Single family but they did try to make it fit in, not only on what they thought, but also based on the all the testimony from the Board and the Public. Reviews the changes; the addition of porches, giving it more of a single family look with a singular door. Refers to Exhibit and states; it is in line to the house immediately to the right-a little further forward to house to the left. Added a little front covered entry way, set back the 2nd floor and did a covered porch, which is also similar in the neighborhood. They took elements from the neighborhood in Gabled & Hip roofs, etc.

Mr. Leeb continues. They did reduce the size. Refers to his latest revision of July 1st, 2014. Speaks to the driveway and the overall footprint of the building. Reviews the changes in the Units of the Apartments. They will now be (2) Bedroom on the 1st floor/ (1) Bedroom on the 1st floor and (2) Two Bedroom on the 2nd floor, common hall & staircase. There will be a common area for mailboxes...

Mr. Leeb testifies they did look at reducing the number of units, but in speaking with the Applicant, what they decided to do was reduce the intensity of the units and reducing the overall size.

Mr. Levitt (Applicant's Attorney) asks Mr. Leeb what the reduction of the Building in square footage is from the original application.

Mr. Leeb testifies the proposed Square footage per floor now is; 1944sf. To answer Mr. Seibel's question, it would double. The same square footage on the 2nd floor. The difference is, the 1st floor has two covered porches that is figured into the Building coverage and Building footprint.

It is not included in the Square footage of Livable area or usable area in the building.

Mr. Leeb states at each hearing they have reduced it and the (4) family got smaller and smaller. Now the total overall square footage for the (4) Family is; 3888sf.

Mr. Leeb states they did a 2nd Rendering that is not in the package.

Exhibit A25-Rendering (#2)

Mr. Leeb testifies in this rendering, points to Exhibit...explains he did this rendering to show the Board how the Two-car driveway works and how it looks, looking up the block and looking towards the rear.

Mr. Leeb passes this rendering to the Board Members to review.

Mr. Leeb refers back to Drawing A3. It shows the front and rear elevation. Refers to (C) A1 of the Package. It shows the existing floor plan of the property and the existing elevations. Speaks to existing height of the building and the street front scape...

Testimony continues...

Mr. Leeb reviews the proposed structure scale and height & revisions to show the Board when they look at it they could see they have stepped it back to have it fit more into the neighborhood.

Mr. Leeb has no further testimony.

Mr. Levitt (Applicant's Attorney) would like to open it up to the Board for questions...

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

Mr. Seibel (Board Member) questions the rendering that was passed around and notes it does not really show the relationship of the house on the other side. Points to rendering...

Mr. Levitt states it was shown in Mr. Leeb's previous submission. It is the raised Ranch.

Discussion...

Mr. Seibel notes it is taken from an angle that he really can't get an idea just how far forward the Subject is.

Discussion continues....

Mr. Seibel asks Mr. Leeb to please use both hands to block the left & the right portion of the colored rendering to show if these portions on each side of the structure were not there, would it be more appropriate and in character with the neighborhood.

Mr. Leeb (Applicant's Architect) replies in his opinion, no. He does not think it would be more appropriate. It would be much more massive and bulkier...explains.

Discussion continues...

Mr. Leeb continues to address this question...reviews the site and the positive criteria of the design.

Mr. Seibel asks if he had a vacant lot, would he put this building in this spot.

Mr. Leeb thinks about this question and answers; given the recommendations for safety, to have a double wide driveway, the driveway would have to be on one side or the other. Refers to Exhibit, if it were a vacant lot, the driveway would have been one way or the other and because this house is set back, having more space around it is actually better because it opens it up than having the driveway on the other side, explains...

Mr. Seibel (Board Member) has no further questions.

Mr. Newman (Chairman) asks if there are any other questions from Board Members, seeing none.

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

Mr. Van Den Kooy (Board Planner) clarifies the calculations of the square footage of the building which is 3888sf.

Mr. Leeb clarifies the porches are not included in this figure and notes it is plus or minus because there is a little discrepancy between Architects and Engineers and how they measure.

Mr. Van Den Kooy questions the original footprint calculation.

Mr. Leeb replies he thinks it was around 2412sf...each floor.

Mr. Levitt (Applicant's Attorney) states the total of 4285sf. and notes the reduction of 403sf. of the original proposed.

Mr. Levitt asks not to quote him on this, these are just his notes...

Discussion continues....

Mr. Newman questions Mr. Levitt, asks if they really wanted to know what this number was, how can they be sure this is it?

Mr. Leeb (Applicant's Architect) asks the Board for a moment to take a look and clarify.

Mr. Levitt (Applicant's Attorney) asks for a 5minute break.

Mr. Newman concurs.

5 Minute Recess called.

Mr. Newman calls the Meeting back to order.

ROLL CALL: Mr. Gil, Mr. Seibel, Mr. Sacchinelli, Mr. Puzio, Mr. Newman & Mr. Naveh.

Mr. Leeb (Applicant's Architect) clarifies the previous Total square footage: 4824sf. and currently 3888sf.

Discussion.

Mr. Leeb testifies the overall square footage of the building of the (4) family since the original proposal, they have reduced 936sf.

Mr. Leeb would also like to point out as a point of reference, the existing volume of the building that is there is 40,800 cubic feet...and the volume of the proposed is 40, 272cubic feet. The volume is very different because it has the sloped roofs, etc.

Discussion continues...

Mr. Newman notes the significant reduction without changing the number of units. He is sure they designed this with the idea the units should be adequate in their living space and design. How is it that there are (4) units equally adequate now at a reduction of almost 1000sf. less?

Mr. Leeb explains when they started the application, they were using the existing footprint, the units were bigger and they had an extra area that could be used as a Den and Mr. Sacchnelli had concerns with this extra area that could possibly be used as another Bedroom....

Mr. Leeb testifies he does a lot of work for "Habitat for Humanity" they work on many different scaled units and these are definitely sufficient in square footage. The other proposal was much bigger...

Testimony continues....

Mr. Newman clarifies the size of the revised units, asking if they are small units, big units.

Mr. Leeb replies; his frame of reference, because most of the apartments he does is Multi-family is for Habitat. Explains...they usually have a slighter bigger bedroom and a smaller bedroom. He explains with this proposed (4) unit, they are not large, nor are they small.

Testimony continues....

Mr. Leeb discusses the square footage of the Bedrooms and reviews the calculations with the Board.

Mr. Seibel (Board Member) speaks to the reduction in square footage and questions the Center Hallway. The use of the Center Hallway increases the size of the building because you are not coming in and out of the units from the outside, correct?

Mr. Leeb states; this is correct and explains....

At the 1st hearing, he heard testimony from a Gentleman in the audience regarding Fire Issues. He believes he was a member of the Fire Department. He talked about how difficult it would be, if not impossible to get the hose around and come up the stairs. By having a Center Hall, it would alleviate this problem and also create easy access and egress.

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

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

Mr. Newman opens the Witness to Residents living within 200ft. of the Applicant for questions only.

Mr. Newman swears in: Mrs. Theresa LaRosa
8-24 Cedar Street
Fair Lawn, N.J.

Ms. LaRosa questions Mr. Leeb on the proposed site and height of the building. Asks if the height will be much higher than it was.

Mr. Leeb (Applicant's Architect) states not much higher.

Ms. LaRosa notes her house is set 25ft. back, the house on the left side of the Exhibit and the view from her house will be nothing but this structure because it will be so high, when she would try to get out of the driveway, she would not be able to see anything.

Mr. Leeb explains they would be improving the site visibility from her driveway. Points to Exhibit location and explains....noting the calculations and refers to the corner of the proposed porch. Explains the existing building with the single driveway. Shows how the new view would look with the corner of building newly proposed and a double driveway, allowing a more open view. The angle has increased immensely leaving an opening to have increased visibility.

Discussion continues....

Ms. LaRosa still has issues with this proposal.

Mr. Newman interjects to state he will have to swear in the Resident who is speaking..

Mr. Newman swears in: Mr. Mario LaRosa
8-24 Cedar Street
Fair Lawn, N.J.

Mr. LaRosa testifies he has lived on Cedar Street for 44 years and when this building goes up it will be going up 22ft. and when he backs up with their car, how is he going to see?

Mr. Newman clarifies if Mr. LaRosa's concern and asks; is it that he will not be able to see when backing up out of his driveway?

Mr. Leeb reiterates the revised Proposal and explains it will increase their visibility. He reviews the Exhibit with the Mr. LaRosa and walks him through the changes. Shows how they cut out the distance and the corner & opens it up for better visibility.

Discussion continues....Mr. LaRosa still has concerns with the setbacks...

Mr. Newman explains to Mr. LaRosa what Mr. Leeb is saying is; compared to the Building that is existing today, what they are proposing will actually make his view to the street better because they will be moving the building away from their house by 9ft. and they will be cutting away part of the corner...

Mr. LaRosa has issues with the height.

Mr. Newman states; yes, they will go higher but it should not affect his view of the street with the driveway.

Mr. Larosa states how will it not affect my view? Explains.....

Mr. Newman understands now what Mr. LaRosa's concern is. He notes to Mr. Leeb there are two separate issues being discussed...

Mr. Leeb understands and reviews the Exhibit again with Mr. LaRosa. Walks through the calculations, it will be higher as it proceeds to the West...

Discussion.

Mr. Newman asks Mr. LaRosa if when he looks out of his window he can see over the top of the building.

Mr. & Mrs. LaRosa both say yes and when this structure is built, they will not be able to see anything anymore.

Mr. Newman clarifies for Mr. Leeb this is the issue the LaRosa's are trying to explain. They can talk angles all day long, but the height of the building will obstruct the line of sight from their house.

Discussion continues....

Ms. LaRosa questions the newly proposed driveway. Asks Mr. Leeb if he thinks it is safe when people & children are going in and out.

Mr. Levitt (Applicant's Attorney) states this was addressed in previous testimony.

Mr. Newman (Chairman) explains to Mrs. LaRosa the changes that were made to the driveway was to try and make it safer. The improvement was suggested by the Board Professionals to create a safer egress from the parking lot. How safe is it? There is no Planner here to testify or answer her question this evening, but this discussion was had at previous meetings and went back and forth at great length, pedestrian traffic, vehicular traffic and the safety of the single car driveway and now it will be an 18ft. driveway and two way traffic is a safer alternative than what was previously proposed.

Ms. LaRosa questions Mr. Leeb on the newly enlarged driveway and will it affect the parking in the back for 8 cars.

Mr. Leeb defers to the Engineer to answer this question.

Mr. Walker (Applicant's Engineer) testifies it does not affect the parking at all. The Striping proposed is still the same. Parking is untouched from what it was on the previous plan.

Ms. LaRosa has no other questions.

Mr. Newman asks if there are any other questions for Mr. Leeb from Residents living within 200ft. of the Applicant. Seeing none,

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

Mr. Newman asks Mr. Levitt to proceed.

Mr. Levitt asks for a moment to confer with his Client....

Mr. Levitt (Applicant's Attorney) returns and states they would like to present closing arguments and request the Board have a discussion and a straw poll, again it would be at the Board's Pleasure. (Laughter is shared)

Mr. Rosenberg (Board Attorney) notes to Mr. Levitt he knows there is no such thing as a Straw Poll. He would ask if he is going to do a summation, he should do it after the Public speaks.

Let the Public speak, gauge the sediment, gauge the dialog of the Board and then decide how they would like to proceed, but the Municipal Land Use Law does not allow for a Straw Poll.

Mr. Levitt asks the Board if the Public would have any General comments.

Mr. Newman opens the Application to the General Public and reminds the Public this is their opportunity to basically tell the Board anything they would like to say about this application. Your thoughts, your opinions, your concerns.

Mr. Newman opens 1st to the Residents living within 200ft. of the Applicant for their comments.

Mr. Newman reminds Ms. Ebner she has been previously sworn.

Ms. Ebner just has some notes to review. She believes it must be obvious to the Board that she is not speaking for the neighborhood but as a person who lives across the street from this building who objects to it strongly. The sheer number of variances they are seeking is obvious it does not fit into our neighborhood. It does not even adhere to the Master Plan to the Town. This is a quiet, dead end street, prominently one family, the quality of life and the property values will be greatly impacted by this and her property value is what she is extremely interested in. At this time, this is her greatest asset and would be very upset to see the value of the homes to go down. Prices keep dropping in this neighborhood. There are a number of homes for sale now...

Ms. Ebner continues. She notes she is a School Teacher of a neighborhood school. She is within walking distance of the School and are at the capacity in the School and Property values are also tied into the Neighborhood Schools. At the Schools, the classes are getting more and more crowded. This year they will not have a Music Room, an Art Room. Classes are 25-28 Students in a class and this impacts the Property value of the neighborhood homes. She states a mistake was made 50years ago when this building was constructed and she is here seeking relief from the Board. Please do not create a new problem that is going to perpetuate their problem and continue this into the future so that future Homeowners in the area would be saying “what were they thinking” which is what they have been thinking for the last 40years.

Ms. Ebner knows this is not necessarily relevant, but this Site was already there when she had her home built and she was promised multiple times along with the rest of the neighborhood, since this building was non-conforming, the business was not allowed to be sold and when the Gentleman retired, it was going to convert back to Residential Property...

The original man that was there when she purchased her home was no problem. Next thing they knew Morlite moved in, it seemed like they moved in over the dead of night and they were a problem and have been a problem for many, many years. Talk about Traffic...the Police were called numerous times, they blocked the Road, and because of the tonnage of their Trucks, they collapsed Sewer Lines in the Road. It was a big problem...

Ms. Ebner states now it is their chance to improve this property. She would have no objection to a two family so they could make some money on it and she is interested in keeping the value of her home and she would ask for the Board’s help in this.

Ms. Ebner ends her testimony.

Mr. Newman reminds Mr. Kuzmiak he is still under Oath.

Mr. Kuzmiak begins by stating he walked around the neighborhood to see the Street and the property they have is a double lot and within 2 blocks of Cedar Street, there are ten double lots similar to that. If this Apartment building is approved, this will open up the ability for all 10 properties to do the same exact thing if these houses are sold. Have someone buy it, expand it and make an Apartment building. They could have 10 Apartment buildings within a 3 Block area of Cedar Street.

Mr. Newman (Chairman) would just like to clarify and give him a little reassurance on this one issue and states; Every application stands on its own merit but he does understand what he is trying to say, once you approve something in the neighborhood what it does start to say is; what we want to do is just like that and it is in character with this” and so forth. It would give some arguing points to a future Applicant but again, every application would stand on its own merit before this Board.

Mr. Kuzmiak understands this but he would like to point out the potential that would be in the neighborhood and he totally agrees with everything Ms. Ebner had said.

Mr. Newman swears in: Renee Reynolds
8-14 Cedar Street
Fair Lawn, N.J.

Ms. Reynolds begins by stating she completely agrees 100% to what Ms. Ebner had to say. She grew up on Cedar Street and it has always been a very quiet, respectable town and to her the main issue is the depreciation in the values of the homes. This will happen if this 4 family house is built. She does not see anything wrong with a Two-family home, she understands they want to make money and she gets it but they are forgetting about the people on Cedar Street. It hurts to see the hard work that families put into their homes and the values depreciating. The neighborhood and the neighbors on the street are excellent and if they go ahead and do this it will depreciate the value of their home that she and her family have worked so hard on, and not to mention they have so much light in their house and they are planning to do a higher building? She cares about the neighborhood.

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

Ms. Kuzmiak states at the last meeting she brought up the topic regarding Snow Removal and she knows with a two car driveway it will not be such a big issue, but her issue still is; from the track record of the current owners, keeping up their property maintenance is not a priority.

The front is constantly overgrown with grass. The Tree limbs fall out and they wait forever for it to be cleaned up. The Snow was never cleaned in the winter. She does not think these Tenants will shovel the sidewalk. She does not think they will plow the driveway & neither does she think the current owners are going to be responsible. It should be done in a timely manner. They all know there is no parking on the Street when the road is Snow covered and because they have a Dead End street, it gets a little icy and everyone needs to be out to clean their own driveway. Putting 8 more cars out on the street to her during a snow storm like this past winter is unthinkable. She cannot comprehend it, just thinking about 2-3 cars and we are talking 8 people they will need to get out of bed in the morning and get this done so they could get to work, she does not see it happening. This is an issue as well. The less bulk, the less cars, the less maintenance the better it will be. She feels that two people in a house would care more for the property than an apartment building. This is just her opinion.

Mr. Newman asks if there are any other Residents within 200ft. of the Applicant with any comments to please step forward. Seeing none,

Mr. Newman opens to the General Public for questions or comments.

Mr. Newman swears in: Allison Lydon
8-46 Cedar Street
Fair Lawn, N.J.

Ms. Lydon explains their driveway is 18ft. wide and goes all the way to the back. She and her Husband have two trucks. They cannot pull in and pull out at the same time and people who park on the side of the streets when they come down Cedar, they all have to maneuver in and out. This winter was horrible. They could only use the front half of their driveway because all the snow had to go in the back half where the Garage is because there is no place to put it, it is a Dead End street. She has concerns about the Traffic, being there are 8 additional cars pulling in and out, the Children and the maintenance as everyone else is.

Mr. Newman asks if there are any other questions or comments from the General Public.

Mr. Newman swears in: Craig Miller
5 Ramapo Terrace
Fair Lawn, N.J.

Mr. Miller would just like to state a general comment for the Board and the Developer. He has lived in the Town all his life and Fair Lawn has always been a quiet Single home Development and what he has been noticing lately is we are building up and up and up. The people that are being affected are the longtime Residents that can't move their houses up and up. He understands that every application stands on its own merit and he knows the Applicant has every right to go higher but the quality of life in Fair Lawn, especially on this street will go down. This is out of character in this neighborhood as far as he is concerned. They are taking one

piece of property (inaudible)... and who gets left behind, the Residents. We cannot continue to go up and up. He is seeing Fair Lawn in a major decline and granted the Board may agree or disagree with him on most cases but they are going to say yes, & yes to anything that comes in here. We are turning Fair Lawn into a major city...

Mr. Newman (Chairman) interjects to ask Mr. Miller to keep the comments specifically on this Application, and if he does have general comments he will open it up later for them but at this time, the comments should be in regards to this application.

Mr. Miller understands but what he is hearing is that the building is going higher and the people cannot see out of their upstairs window. To him, this is wrong. Go back to what Fair Lawn is; homes, not Commercial buildings made to look like homes. Thank you.

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

Mr. Newman closes this portion and asks Mr. Levitt (Applicant's Attorney) to summarize.

Mr. Levitt steps forward and begins with the statement that this Application has been going on for quite a while. They have had, he believes 5 meetings on this application with multiple revisions because the Applicant has listened very closely to the comments of the Board and the General Public. He truly thinks the Applicant has clearly met all the requirements for the request variances, he does not think he has to go into depth here. The Applicant has adequate side yard, and they have addressed everything.

Mr. Levitt continues. This is why we are here. This Board and the Public, he asks them; are they better off with what exists today or what is proposed? If their decision is they want a Commercial building in the center of a Residential property, a Commercial building that is out of character, a building that would generate Truck traffic. He believes he heard testimony to the fact that the trucks hit the building, hit the fence, concerns about Children. Is Truck traffic better than Residential sedans? The Public brought the subject up regarding preserving the integrity of a single family character, well this is exactly what this application is doing. It is bringing the property that is currently a Commercial property back into the characteristic of the existing neighborhood...existing is a Commercial building that the current owner or even a future owner has no obligation to do anything except use it for what it is allowed to be used for, a pre-existing non-conforming Commercial use as a Storage Facility. They need to ask themselves; what is better?

Mr. Levitt continues...this question is pretty simple to answer in everyone's minds. What struck him, and he really does appreciate the Public's input, it shows him the passion they have for their homes as he would have the passion in his own neighborhood, but he is having trouble understanding how a plain Commercial building brings up the value or maintains the value versus what he believes Mr. Leeb (Architect) has done, a most excellent job of providing what's in character to what the Residents within 200ft. have in this neighborhood. It is a larger viewing of a Single family home that contains 4 Apartments. It is not a Commercial building and in his humble opinion, he thinks this would bring the value of the neighborhood up. It is a true

Residential neighborhood, not a Residential neighborhood that has a Commercial building in the center of it.

Mr. Levitt refers to the Town's New Master Plan, it speaks entirely to what the Applicant has proposed. A desire to preserve a One Family characteristic. They talked about A, B & C. There is no C. This is the Application, and if the Board chooses to deny it, it will be a Commercial building. If the Board chooses to approve it, it will be what the Master Plan is asking for, a desire to preserve 1-Family characteristic with Green attributes and bring it into more conformity of what the Master Plan is requesting. Make Residential neighborhoods Residential.

Mr. Levitt states it's not a perfect world & notes when he first started Law School a comment that always stuck with him was; what's a good settlement? Both parties are unhappy, that is a good settlement, and what they have here is a 4-Family Residential replacing a Commercial building.

Mr. Levitt thanks the Board.

Mr. Rosenberg (Board Attorney) asks Mr. Levitt whether he has made a decision to proceed this evening with a Vote.

Discussion....

Mr. Newman (Chairman) notes to Mr. Levitt in his opinion, and he will ask Counsel what his thoughts are but when any discussion immediately proceeds a Vote in an Application of this type, is almost in essence, voting itself. It is almost a Straw Vote he is looking for. By the time they are done having any discussion here, he will pretty much know everyone's vote, in his opinion. Mr. Newman would ask Mr. Levitt to make a decision prior to this.

Mr. Newman defers to Mr. Rosenberg (Board Attorney)

Mr. Rosenberg would tend to agree. They have been as flexible as possible and he feels Mr. Levitt has to decide as to whether or not to move forward. The matter is now effectively closed, he has made his summation and now prior to voting, the Board will discuss it and really vote...

Mr. Rosenberg adds; if he would like this to be adjourned to the August 25th hearing for the purpose of allowing 7 Board Members to vote on the Application...

Mr. Levitt respectfully disagrees and he feels the Board can have a discussion and then have the Applicant request to carry it to the next meeting regardless of how the Applicant thinks this would go. He would ask the Board, and he will defer to Counsel as to who has this call. He understands what he is recommending to the Board, but he does not know who has this call or if they need to put that to a vote.

Discussion.

Mr. Rosenberg (Board Attorney) states the Chairman can ask the Board how they would want to proceed.

Discussion...

Mr. Levitt (Applicant's Attorney) asks Mr. Rosenberg if he would agree, it is a procedural aspect.

Mr. Rosenberg will agree. It is a Procedural Aspect.

Discussion

Mr. Rosenberg clarifies to Mr. Newman what he would do is; ask the Board what it wishes to do. Do they wish to engage in discussion now and allow Mr. Levitt the opportunity to decide whether to ask for the vote or not to vote.

Mr. Newman (Chairman) speaks to the Board and uses the reference Choice (A) would be; to have a discussion prior to voting, but right before the vote, the Applicant gets the opportunity to decide whether they would want to go to a Vote tonight.

Choice (B)-The Applicant needs to make a decision now and if they choose to proceed tonight, we can have a discussion and Vote.

Mr. Newman continues; Choice (B) (a) would be; when they reconvene at the next hearing, discussion will take place at that time and then they would vote and there would be no discussion tonight.

Mr. Levitt states this is correct.

Discussion continues....

Mr. Newman reiterates & clarifies this type of voting is discussed....Option A & Option B.

Option A: Open discussion now before asking for a vote, but first gives the Applicant the option to vote at the next hearing with 7 members with no vote tonight.

Option B: The Board discusses and the Applicant goes for the Vote this evening.

Mr. Newman asks if the Board is clear & understands Option A & Option B.

Discussion.....

Mr. Levitt puts forth another option: if the Board were to choose, not to discuss and allow the Applicant to vote, the Applicant would still like the opportunity to say; we can move forward tonight.

Discussion continues...

Mr. Rosenberg (Board Attorney) clarifies this option by explaining he may want to go with the 6th. It would be like Option C. Even if the Board chose not to discuss this evening, they just want the opportunity to ask for a vote, which is his right as well.

Mr. Newman asks the Board for a show of hands for the Options referenced.

Option A: Full discussion this evening but no vote. – 3 Count

Option B: Full discussion this evening and vote. –2? (Mr. Puzio does not participate)

Mr. Newman asks Mr. Puzio if he is abstaining.

Mr. Puzio (Vice-Chairman) notes it is his personal opinion, he feels it would be inappropriate to have a discussion unless they are going to vote.

Mr. Newman explains he would be choosing Option B, and states to Mr. Levitt, he has 3 out of 3.

Discussion...

Mr. Levitt (Applicant's Attorney) would like 2 minutes to speak & discuss this with his client.

RECESS: 2 Minutes.

ROLL CALL: Mr. Gil, Mr. Seibel, Mr. Sacchinelli, Mr. Naveh, Mr. Puzio & Mr. Newman.
(Present)

Mr. Levitt steps forward and states; The Board members has heard their arguments, they ask for their discussion and vote this evening.

Mr. Rosenberg (Board Attorney) notes though, because the Application has been modified over the last 5 hearings, he feels it is important, they understand exactly all of the variances that are now required and asks Ms. Peck (Assistant Zoning Officer) to review them since the information they have is a carryover from the very 1st hearing. We all should understand exactly what it is in terms of the nature of the relief.

Ms. Peck would defer to the Applicant's Professionals to speak to how relief has changed...

Mr. Rosenberg asks Mr. Levitt to call Mr. Leeb (Applicant's Architect) or Mr. Walker (Applicant's Engineer) to review how the relief has changed.

Mr. Walker reviews the list of variances.

1. Use variance, change in use. From a non-conforming business to Multi-family
2. Front yard setback- maintain 7.6' existing
3. Side yard setback –maintain existing 2.7'-notes the opposite side of the side yard is currently at 12.1' and under the revised plan, being expanded to 21.2'. One side needs the variance.
4. Building Coverage. Proposed at 26% where 25% is permitted. Explains they decreased The building coverage but they still need the variance.
5. Impervious coverage-existing 93% /Proposed 80.1% /Allowable 35%

Ms. Peck (Assistant Zoning Officer) notes the Driveway setback has been eliminated.

Mr. Newman notes the one thing skipped over was the amendment to site & parking, requiring a minor site plan?

Discussion....

Mr. Rosenberg clarifies this is a minor Site Plan Approval, not a variance.

Mr. Walker continues...it was determined the FAR variance was no longer required.

These are all the variances.

Mr. Newman will start off the discussions since everyone has a good feel for where he stands on this and he will not be surprising anyone. He has thought from the beginning that a 4-family Multi Family Dwelling in this setting is completely out of character with the neighborhood.

He has not had the opportunity to look at the New Master Plan so admittedly he was a little nervous listening to Mr. Van Den Kooy this evening. He was relieved with what he did say and that would be; the Master Plan much more strongly states the Borough's desire to maintain the integrity and value of Single family neighborhoods in the Single Family characteristics.

Despite great efforts to make an Architecturally Pleasing Structure by Mr. Leeb that is reminiscent of a two family house, he wouldn't go as far as a one family, but he did what he could do with this building, in his opinion he still does not fit the character of the neighborhood in his opinion.

Mr. Newman also mentions he made it clear from the beginning of this application, he was a bit offended by the Applicant's representation that is either was: take this or they will park their trucks here. Obviously despite whatever testimony was given by the Applicant, the applicant has

every opportunity to come back to this Board with a different plan. As long as it is significantly different from this one.

Mr. Newman continues...in order for it to not be Res Judicata, they would have to come back with a significantly different and they could come back with less units.

Mr. Newman feels the initial representation which carried through the entire application of if we don't do this then the neighborhood is stuck with this Commercial use and it will be terrible and horrible ...he does not see it this way. He does not feel a denial of this application means this neighborhood is stuck with this. It could be, but it certainly isn't written in stone.

Mr. Newman reiterates the Master Plan and notes it is pretty clear. The quality of Life, property value. Notes Ms. Ebner's testimony; since she teaches at the School and there is already a School crowding issue they are looking at. A Multi Family dwelling could obviously increase the number of students.

Mr. Newman cannot find anyway of Benefit. He looked at Public benefit versus detriment to the Zone Plan and he cannot find anyway the public benefit in his opinion is minimal, if any. He does not know what the Public benefit would be to this? Whatever public benefit would be derived from this Multi family dwelling is extremely outweighed by the detrimental effect upon the integrity of the Zoning plan that would result from the construction of a Multi family dwelling in an area zoned exclusively for Single family residences.

Mr. Newman states this is his take, more completely stated.

Mr. Newman asks the Board to proceed with their thoughts.

Mr. Gil (Board Member) notes he would tend to agree with him. He thinks a 4 family structure in a single family residential area would take away from the character of the neighborhood. Listening to the Public and the residents who live there and hearing their side, we have to respect this too. Knowing what they are going through.

Mr. Gil refers to the Master Plan and hearing what it states about preserving Single family structures and this obviously wouldn't make sense...

Mr. Naveh (Board Member) notes he agrees with the comments thus made by the Board so far and asks; do they even have anything like this in Fair Lawn.

Mr. Newman replies; to his knowledge, to their Professionals knowledge, to the Applicant's knowledge, he believes no.

Discussion...

Mr. Naveh sees how much the Public is against this and he feels this is their Community, their Street and it is important to them. There is a lot of questions in his opinion, whether this would be the best use for this property moving forward.

Mr. Seibel (Board Member) states; he has been struggling with this one. He has looked at the improvements that are there and has compared them to the improvements that could be there and he goes back to what is there is inappropriate, but what is proposed to be put there is inappropriate also. He puts a lot of weight on the Residents who are approximated to the subject property. It is their neighborhood and they are telling us one thing, where they (The Applicant) is telling another. He does not know the improvements that are there are not affecting property values in one way or another and he would not know what the new improvements would do to the property values in one way or another. He is struggling a lot with this because he would love to see this commercial building gone forever but he wants to see it replaced with an appropriate structure that is not as dense and not situated as close to the street...

Mr. Seibel continues. He thinks the Architect did a great job but he thinks the job he had was tough and he was trying to get 10pds of potatoes in an 8pd Sack and the people in the neighborhood do not like this.

Mr. Puzio (Vice Chairman) echoes Mr. Seibel's comments. He struggled with this also. Knowing it is a Commercial building in a Residential zone, a lot of thought was anything would be an improvement, however he thinks the middle ground was missed going from a Commercial building. He does not think anybody wants to see it going back to being used as a Commercial building but to jump into a 4 family house causes traffic and the potential of children, etc.

Mr. Sacchinell (Board Member) listened a lot to everyone's testimony and also listened to the revisions to the size of the apartments. He did reduce them. He had issues with the driveway, the backing up of cars. They fixed this. He sees what is there now. He heard the current neighbor's saying the house was going to block their view, they fixed that. If he was living in this neighborhood, he would much rather have a 4 families that lived there, get to know the neighborhood than have delivery trucks. This building has the potential to have trucks going all day long, all night.

Discussion.

Mr. Newman (Chairman) notes there is a giant question mark over what exactly the Grandfathered use of this Site would be...

Mr. Sacchinelli states this would be make a big difference in a lot of their votes.

Discussion continues....

Mr. Newman states back to the first evening the Applicant presented, they discussed this fact. The use had not been established and it may have been a good idea to establish before proceeding but the Applicant chose not to do this. He does not know what would happen moving forward, if this application were to be denied tonight and the Commercial use were to resume on this site. He does not know how it would be determined whether or not this commercial use was in conformity with the prior commercial use therefore enjoying its grandfathered status and he does not know to what extent any future use could be challenged because someone felt it was not

in compliance with the previous use. It is a Pandora's Box that could potentially end up before this Board again. It is not something this Board could take strongly into their decision because they do not have the ability to weigh this.

Mr. Sacchinelli reiterates the Building does have the ability for deliveries...

Discussion continues....

Mr. Sacchinelli notes it is a Warehouse. Trucks can come and go all day long.

Discussion continues...

Mr. Newman notes the Commercial Building on River Road (Leone Construction) and states what an improvement that was compared to what it was. They have a whole Construction operation working out of there, they have equipment in the back but what a job they did to that site. He does not think they could make a blanket statement that having some kind of Construction business running out of this would absolutely be horrible because if they look at Leone Construction as an example, they put a lot of care and effort into the Landscaping, the setup and the Architectural design...

Mr. Sacchinelli understands this but he still thinks with a 4 family, they know what they are getting, but with a Commercial, you don't know what can show up.

Mr. Newman understands but also notes you never know what type of neighbor you could be getting either...then times it by 4 small units with growing families, it would probably mean a lot of turnovers...a lot of change of tenants, there are a lot of potential negatives either way and it would be hard for this Board to predict the future in either case.

Mr. Seibel (Board Member) speaks to Leases. Do they would know at this time if this Multi family would be leases based on yearly, or monthly leases? Do they know if they would be Condominiums? It is his opinion, the improvements on the site are obsolete. If they were not obsolete, they would be more modern, more improved and more taken care of...in his opinion, the value is in the Land and the building may not be there very long based on what the Market determines. The Market knows and this is a tough one...

Mr. Newman asks the Board if there are any other thoughts. If not, Mr. Newman would ask for a motion.

Mr. Gil (Board Member) makes a motion to deny the application.

Mr. Seibel seconds the motion.

VOTE: Mr. Gill, Mr. Naveh, Mr. Seibel. Mr. Puzio & Mr. Newman. **Yes to Deny.**
Mr. Sacchinelli, **No to deny.**

Motion does not carry. 5-1
Application Denied.

Adjourn:

Mr. Naveh makes a motion to adjourn and Mr. Puzio seconded the motion.

All Present: Aye
Time: 10:00PM.

Respectfully submitted,

Cathy F. Bozza
Zoning Board Clerk