

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
Of June 23, 2014**

Following are the Fair Lawn Zoning Board of Adjustment's regular meeting minutes from the Zoning Board meeting held on June 23, 2014.

Chairman Todd Newman called the Special 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. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman,
Mr. Naveh, & Mr. Newman.

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

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

Board Professionals in Attendance: None

Mr. Newman makes an announcement if there is anyone here for the Planning Board Meeting, the Planning Board Meeting is at 7:30, Room B5. (Basement)

Mr. Seibel leads the Pledge of Allegiance

Mr. Newman announces:

Application 2014-01, Rici Realty will be carried to a Special Meeting on August 4th, 2014.
No Testimony to be heard. Applicant will re-notice.

Residential Business Carried:

1. Application #2014-06, Vincent Fantacone,
1-14 Berdan Avenue, Block 5517, Lot 47, Zone R-1-3
Request a Certificate of Non-conformity. Existing non-conforming two family on an undersized corner lot. Proposed expansion requires a D-2 variance, expansion of a non-conforming as per Section 125-57.D.(1)(d){1} Proposal would reduce the building coverage from 27.8% to 27.3% where 25% is permitted. Reduce the existing impervious coverage from 51.8% to 48.5% where 35% is permitted. Maintain side yard setbacks of

4.84' and 5.09' where 8' is required. Maintain the front yard setback of 14.29' on 2nd Street and maintain 18.51' on Berdan where 25' is required. Proposed FAR of 42.75% where 40% is permitted requires a D4 variance as per Section 125-57.D.(1)(d){1}...
(Continued)

Reduce the existing driveway to 28' where 22' is permitted as per Section 125-48.C.(7) Proposed 6ft fence in front yard setback on 2nd Street where only 3ft is permitted as per Section 125-38.A. Fences. Proposed Deck accessory within the front yard setback on 2nd Street would be 20.54' where 35' is required as per Section 125-33.

Fees have been paid and there is proof of Service

Mr. William Soukas (Attorney) steps forward on behalf of the Applicant, Vincent Fantacone. He states Mr. Fantacone is the Owner of the property located at; (states address) This property is identified on the Tax Map of the Borough as Lot 5517, Block 47.

Mr. Soukas states Mr. Fantacone currently resides at the property with his family and Tenants occupy the 2nd floor. The Applicant is currently before you to expand the current structure. He seeks four (4) general categories of relief. Reviews the variances with the Board.

1. Zoning Certification of the Property as a valid non-conforming use.

Explains this is a 2 family in an R-1-3 Zoning District, which is a single family zone. They have proofs to share with the Board this was a prior existing non- conforming use as far back as 1953. Subject to Board Counsel's advice, the prevailing inquiry in Zoning Certification is what the use was at the time of the adoption of the Zoning Ordinance. It is his understanding the Ordinance was adopted in May of 1954. In the search of Municipal records, they had located a permit for work to be performed on the house in 1953 which reflects a two-family use at that time, therefore we will request the Board issue a Zoning Certification as a Valid Non-conforming 2 family.

Mr. Soukas continues....

2. The Applicant is seeking D-2 variance approval.

Approval for expansion of the non-conforming use and/ or Structure. Even though it is being used as a Two-family, the use remains Residential. The request for relief is really one more for a non-conforming structure, explains...

Mr. Soukas states they do have a Planner here this evening to help the Board in its consideration of the Zoning criteria of this inquiry. The Planner is David Karlebach who has appeared before this Board and the Planning Board numerous times and will present the Zoning criteria for your consideration.

3. The Applicant is seeking a D-4 variance. A Floor Area Ratio variance.

Mr. Soukas explains the applicant is seeking 42.75% Floor area which is an increase of approximately 6%. The increases are primarily due to the size of the property which is undersized, that being 4900sf where 6500sf is required. The FAR would not be a consideration if the property was not undersized. In addition, as they will see the proposed improvements to the property are modest and sized. All the modifications which are few are similarly modest.

Mr. Soukas states Mr. Glen Reda from the Office of the Applicant's Architect has prepared the plans and will testify to all the details...

4. The Applicant is seeking variances pursuant to C1 & C2, including a Fence variance. To permit a 6ft. fence in the Front yard.

Mr. Soukas explains this property is located on a corner, the property is burdened by (2) Front yards. This is the only reason why a request is being made for an approval of a 6ft. fence in the front yard. The fence will not interfere with any lines of sight. It is located in the middle of the property and is very similar to many fences in the neighborhood.

Mr. Soukas testifies the property is not only undersized, its width is also under what is required, being 50ft. where 75ft. is required. The Architect will testify only approximately 255sf of area are being added.

Mr. Soukas notes he neglected to note the specifics other than the fence of the modifications proposed. The Applicant proposing to close off an entrance into the kitchen which is on 2nd Street and move the entrance to the rear of the house where he is proposing to create a Mudroom. The Mudroom itself will be 13'x6' based on the exterior measurements. The Mudroom will then enter into the Living area of the home. The 2nd revision will be an addition of a Bedroom to the 2nd floor, approximately 11'X12ft.

Mr. Soukas continues. He would like to note this application does present concrete zoning benefits. The benefits will be testified to in length by Mr. Karlebach, but would like to note this proposal will reduce the Building coverage. It will reduce the impervious, maintain the existing side yard setbacks, existing front yard setback on 2nd Street and maintain the front yard setback on Berdan. Reduces the existing driveway and as the Applicant will testify to the driveway was non-conforming when he purchased the house in 2005.

Mr. Soukas explains in all, they believe the proposal will result in a great esthetic improvement to the property and will also result in better functionality and use of the property by moving the entrance on 2nd Street to the back of the property, presenting a better safety alternative for the Children.

Mr. Soukas states these modifications satisfy many of the purposes of Zoning, including providing adequate light, air and open space. Development consistent with the neighborhood and the Residential zone. Promotes the establishment of appropriate population densities and the well-being of the neighborhood, as well as providing sufficient space in appropriate locations.

Mr. Soukas summarizes and states; after proofs are given, we are hopeful the Board will grant the relief in its entirety.

Mr. Soukas directs his question to Board Counsel & Chairman. He is not sure how they would like to consider the Zoning Clarification issue. It would seem like an issue you may want to consider separately, perhaps vote in advance of the Application to the extent the entire application is for an expansion of the non-conforming use, it may be wise to determine in fact, the use is a valid non-conforming use.

Mr. Rosenberg (Board Attorney) concurs. He would counsel the Board, due to the fact he (Mr. Soukas) has asked for a determination, he would suggest he proffer the proofs initially. Let the Board consider them with respect to what is exactly is/is not grandfathered and then vote on this issue first because everything will flow from this determination.

Mr. Soukas begins by stating he has a number of Proofs. Some of which they may want the Applicant to help in introducing, otherwise he could simply mark them and provide them to the Board for consideration.

Discussion with Board Counsel.

Mr. Soukas notes some of the Documents were obtained by him in his search of Municipal records and if he could, he would like to offer at least 3 Documents without necessarily bringing his client up.

Exhibit A1- Report from Realty Appraisal Company for a re-evaluation done in October, 2006
It notes # of units under Building Information which reflects (2) Units.

Mr. Soukas states his client will testify he has been taxed and assessed as a Two-Family since he has owned this house in 2005.

Exhibit A2- Document is an Application to build/alter/repair and make additions to the property Dated June 2, 1953. This document grants the owner to construct a two car garage in the rear of the property...refers to the lower left hand corner where there is a notation from the Building Official at this time in 1953 which states; this is a Two-family house. Dated 9/16/1953

Mr. Soukas hands the Exhibits A-1 & A2 to Mr. Naveh (Board Member) to pass along..

Exhibit A3- Building Permit issued in September, 1979 to put on Aluminum siding, with an Approximate cost of \$2,500. Refers to section of permit #11-how occupied at Present and it is written in handwriting; 2 family

Mr. Soukas again offers the Exhibit over to Mr. Naveh to pass along the Board.

Mr. Soukas asks Mr. Fantacone to please step forward to provide testimony.

Mr. Newman point out to Mr. Soukas a reference in Exhibit A1 under residential cost approach...its states Apts/conversion?

Mr. Soukas so notes this.

Mr. Newman swears in: Mr. Vincent Fantacone
1-14 Berdan Ave
Fair Lawn, N.J.

Mr. Fantacone begins his testimony stating he has been residing at this property since 2005 and at the time he purchased it based on the representation it was a two family.

Mr. Soukas (Attorney) shows Mr. Fantacone a Document he has marked for identification as Exhibit A4-asks Mr. Fantacone to please identify this Document to the Board.

Exhibit A4- NJMLS Listing for the property when it was for sale, listed as a two family and is the listing in which he relied on in the purchase of the property.

Mr. Soukas passes Exhibit A4 to the Board for review.

Mr. Soukas shows Mr. Fantacone a Document he has marked as Exhibit A5 for identification, can he please identify this document to the Board.

Exhibit A5-Commitment Letter from Finance Company listing the house as a Two family which he received upon the purchase of the property.

Mr. Soukas refers to the document referencing #7 of Itemized conditions reflecting this loan is to be secured by a 1st Mortgage on a two family.

Mr. Soukas passes Exhibit #5 to the Board for review.

Mr. Soukas shows another Document he has marked as Exhibit A6 to Mr. Fantacone.

Exhibit A6-Letter dated March 9, 2005 from the Borough Tax Access or, Timothy Henderson To Community Bank of New Jersey.

Mr. Fantacone testifies it is a Document that is certifying or acknowledging the listed property is a two family and is being taxed as such in which he received in connection with the purchase of the property.

Mr. Soukas passes Exhibit #6 to the Board for review.

Mr. Soukas refers to a Document he has marked as Exhibit A7 and asks Mr. Fantacone to please identify this to the Board.

Exhibit A7-Title Policy, a Tax search in which it lists the property as a Two-family obtained upon the purchase of the said property.

Mr. Soukas refers to Document he has marked as Exhibit A8 and asks Mr. Fantacone to please identify this document to the Board.

Exhibit A8- 2013-14 Preliminary Tax Bill reflecting the home is in fact taxed as a Two-family.

Mr. Soukas passes Exhibit A7 & A8 to the Board for their review.

Mr. Soukas asks Mr. Fantacone if he has had an opportunity to conduct any investigation into the two family status of the house.

Mr. Fantacone testifies he has spoken to some of his neighbors and to their knowledge the house was a two family prior to his purchase of it. Since he has lived in his home, he has been taxed as a two family.

Mr. Soukas has no further questions for Mr. Fantacone on this particular issue.

Mr. Newman (Chairman) asks if there are any questions for Mr. Fantacone.

Mr. Seibel (Board Member) asks Mr. Fantacone if he received a Certificate of Occupancy when he purchased this home.

Mr. Fantacone states he does not recall.

Mr. Soukas (Applicant's Attorney) states he believes he did see a Certificate of Occupancy, but he regrets to say, he does not think he has it with him.

Ms. Peck (Assistant Zoning Officer) interjects to state she does have it on file and in their search, they also went to the Tax Department.

Mr. Newman (Chairman) swears in Ms. Peck (Assistant Zoning Officer) before continuing her testimony.

Ms. Peck testifies; in their search prior to the application, they also have copies of the Building Permits that were entered evidence as well as the Certificate of Occupancy for Resale that her Department issues. They were issued their CCO#05-061 on 4/25/05 and it states two family. Entered into Evidence as Exhibit A9.

Exhibit A9-Certificate of Occupancy.

Ms. Peck has no other further testimony other than they also have everything Mr. Soukas has entered into evidence and she has nothing to say it is **not** a two family.

Mr. Newman asks if there are any other questions for Mr. Fantacone. Seeing none,

Mr. Newman defers to Counsel and states he would like to open questions for the Public seeing they are dealing with this as a separate issue, he feels it would be appropriate.

Mr. Newman asks if there are any questions from Residents living within 200ft. of Mr. Fantacone solely regarding the determination as to this being a two family house and/or questions on his testimony. Seeing none,
Mr. Newman closes this portion.

Mr. Newman asks if there are questions from the General Public for Mr. Fantacone. Seeing none,
Mr. Newman closes this portion.

Mr. Newman asks if there are any other discussions or questions from the Board regarding the Applicant's request for Certification of a non-conforming use. Seeing none,
Mr. Newman asks Mr. Soukas if he would like to summarize.

Mr. Soukas (Applicant's Attorney) respectfully asks the Board to grant a Zoning Certification In this particular instance. They have given a number of Documents, perhaps the most probing is a 1953 Building Permit reflecting that it was in fact considered a two family at this time and the fact that the Zoning Ordinance was adopted approximately a year later. He asks that the Board grant Certification.

Mr. Newman defers to Mr. Rosenberg for any questions or something to add.

Mr. Rosenberg (Board Attorney) states he thinks the Board could take the Documentation that has been proffered, look at it and have the ability to weigh the documentation and find whether or not the Applicant has met its burden. It is always the Applicant's burden to demonstrate what the use of the property was prior to the adoption of the Zoning Code.

Mr. Rosenberg notes Mr. Soukas has made the proffers to the Board and it's up to the Board whether or not to grant the Zoning Certificate and vote upon this.

Mr. Newman (Chairman) has one question for Mr. Soukas. What is the significance of the Certification at this time?

Mr. Soukas (Applicant's Attorney) explains. The Zoning Certification essentially memorializes that a use was in fact a valid non- conforming use. Like it or not, there are possibilities there are

other non-conforming uses that were put in place without this Board’s approval or otherwise improperly being utilized at this point in time.

Mr. Soukas reiterates this is intended to memorialize what is an existing and non-conforming use and we are not asking the Board to pass on anything, on any improvements on a use which in fact was not a valid one.

Mr. Rosenberg (Board Attorney) adds; if in fact, the Board were to find the Applicant is not entitled to the Zoning Certificate of a non-conformity, then the Applicant’s relief and request this evening would be for a D-1 Use variance, this is the threshold reason why this determination has to be made, otherwise it is not an expansion of a non-conforming use, he is actually here for a Use variance to permit a two family home in a one family zone...

Mr. Newman asks if there are any other questions from Board Members and if there are none, he will ask for a motion.

Mr. Seibel makes a motion to approve the issuance of a Zoning Certificate based on the Applicant’s Proofs the subject is in fact a legal pre-existing non-conforming use as a Two Family Dwelling.

Mr. Sina seconds this motion.

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

Motion carries.

Zoning Certificate Approved

Mr. Soukas moves to the 2nd portion of the Application, calling his first witness.

Mr. Soukas calls Mr. Glen Reda (Applicant’s Architect) to the Podium.

Mr. Newman swears in: Mr. Glen Reda (Architect)
445 Hudson Street
Hackensack, N.J.

Mr. Reda testifies is not a Licensed Architect in the State of New Jersey but offers his Educational background & his Professional Training Experience.

Mr. Newman accepts Mr. Reda as an Expert in the Field of Architecture with no objections from the Board.

Mr. Reda reviews with the Board the material he has reviewed in preparation for tonight and the drawings he prepared...

Mr. Reda testifies he reviewed the Local Ordinances and the Construction Codes for the State of New Jersey and the existing Site Plan prepared by Thomas Sterns.

Mr. Reda continues. He met with the Owners on several occasions, reviewed their concerns, they field measured the existing conditions and came up with a Game Plan as to how best to (inaudible) for this family's growing needs.

Mr. Reda testifies he prepared the Documents and Mr. Neapolitan of his office executed the Documents.

Mr. Soukas (Applicant's Attorney) enters Exhibits into Evidence.

Exhibit A10-Drawing A1 of Board Package.

Exhibit A11-Drawing A2 of Board Package

Mr. Soukas asks Mr. Reda to provide an overview as to the nature of the property.

Mr. Reda testifies the home is on the corner of Berdan & 2nd Street. There are a number of existing structures on property. The main structure being a two family, 1 ½ story framed dwelling. It has two apartments and in the rear of the Southern corner of the property an oversized two car garage, roughly 22x22ft. There is an existing 10x10ft. Storage Shed and a number of walkwalkways.

Mr. Soukas asks Mr. Reda if the Shed will be removed with this project.
Mr. Reda testifies yes it will be removed.

Mr. Reda continues with his testimony describing the main concern with the first floor is you walked directly into the kitchen, refers to Exhibit A2. What they are proposing on the 1st floor is remove the entrance from 2nd street, remove the wood frame steps and pathway leading to the street and create a new 13x6ft addition. This addition would create a small Mudroom with a small closet for coats and shoes and opposite a space to move the Washer & Dryer from downstairs to the main level.

They will be adding a 10x10ft Wood Deck in addition to a little walkway leading to this deck and leading up to the framed addition. The addition itself is only one story.

Mr. Reda continues. The addition sets further back than the existing house so as to minimize the existing variance for the front yard setback on 2nd Street.

Mr. Reda refers to the location of the fencing and explains it would give the Homeowner a little bit of privacy and security for the Children.

Mr. Soukas asks Mr. Reda to please describe the grassy area located behind the proposed Wood Deck.

Mr. Reda refers to the site plan. He had highlighted the areas that are being removed so there is approximately 25-30ft from the house to the detached Garage, explains the existing shed will be removed as well as the wood Deck entrance from 2nd Street. The walkway leading from the driveway to the existing entranceway is also being removed.

Mr. Reda explains some time ago when the house was purchased by the applicant, the driveway was made smaller, they will be cleaning this up and making it part of the application as well. Points to location on site plan and states the green area was where the old driveway was per the original Survey and the lines are where they propose to put it now.

Mr. Reda walks the Board through what the Applicant proposes to do on the 2nd floor. Refers to Exhibit A2. Explains the existing 2nd floor has one large bedroom, a small eat-in kitchen and a small living area. What they are proposing is to make the living area larger by moving it out towards the front of the house. It will not go to the end of the house, it will sit back several feet to create some interesting lines from the front elevation.

Mr. Reda continues. They are adding approximately 10ft. on to the right hand side of the home, this will allow them to make the 2nd bedroom. They will make the existing bedroom a little smaller and create two modest size bedrooms...the 2nd bedroom is going to cantilever over the existing house. Refers to Board Exhibit, points to the front elevation to show Cantilever. They believe it will help to soften the elevation from the street and create interesting shadow lines so it doesn't look like a typical two story Colonial home.

Mr. Reda testifies they will be adding some different materials. Some decorative shakes on the 2nd level with some pile siding and scallop shapes in gable (inaudible).

Mr. Soukas asks Mr. Reda to please describe the fence to the Board.

Mr. Reda explains the fence on the Site Plan. It will be approximately 20ft. long and will go from the end of the house (approximately 10ft) towards 2nd and then back to the existing driveway. It is just to create a small enclosed back yard. It is only an L-shaped fence. They are not putting a fence across the driveway. It is only to create a little privacy and security.

Mr. Reda testifies it does not affect any site lines when asked by Mr. Soukas.

Mr. Soukas (Applicant's Attorney) has no further questions for his witness, Mr. Reda.

Mr. Newman (Chairman) asks if any Board Members have questions for Mr. Reda.

Mr. Racenstein (Board Member) has a question regarding the Deck proposed. Newly proposed is 3x the size of the existing. What is the material they will be using? Composition Board or?

Mr. Reda (Architect) testifies it will be a "Treated" wood deck.

Mr. Racenstein questions the fencing. What type will this be? Cyclone, Pickett?

Mr. Reda testifies it will be a “Board on Board” to create a little more interest. Staggered Boards.

Mr. Seibel (Board Member) speaks to Mr. Reda & states; there is a new Ordinance in Town with regards to Pavers & Impervious Coverage. Did he consider this or was he aware of this Ordinance in regards to the driveway & sidewalks.

Mr. Reda testifies they are adding a small walkway but they will be taking away more walkway than adding.

Discussion.

Mr. Seibel mentions the reduction of the Building coverage.

Mr. Reda testifies by eliminating the shed, a reduction to the driveway and the walkways (points to location of removal on Board Exhibit) and explains the addition itself is also constructed over a Bilko door so that door was pervious material and did not increase the coverage.

Discussion...

Mr. Seibel has no further questions.

Mr. Gil (Board Member) asks Mr. Reda, in terms of the style of the home, is this house going to be within the character of what most of the homes look like within the neighborhood?

Mr. Reda testifies he believes it will be similar to most of the homes in the area. He does not know if there is a particular style throughout the entire area, but he believes it will fit in.

No further questions from Mr. Gil.

Mr. Naveh (Board Member) questions Mr. Reda on the reduction of the driveway. Will there be enough space for a two family dwelling, is there enough space for everyone to park?

Mr. Soukas (Applicant’s Attorney) interjects to state there are currently tenants upstairs and the driveway does adequately serve them. It is only one unit and it handles its current needs.

Discussion.

Mr. Newman (Chairman) would like to know if there is obstruction of Light, air flow.

Mr. Reda testifies no. The basic footprint of the building has stayed similar to what it was. A small section of it is taller but he does not believe it will have any impact on the neighboring properties.

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

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

Mr. Newman closes this portion.

Mr. Newman opens the Witness to the General Public. Seeing none,
Mr. Newman closes this portion.

Mr. Newman asks Mr. Soukas to bring forth his next witness.

Mr. Soukas (Applicant's Attorney) calls Mr. David Karlebach.

Mr. Newman swears in: David Karlebach (Planner)
38 East Ridgewood Ave
Ridgewood, N.J.

Mr. Newman certifies Mr. Karleback as an Expert in the Field of Planning with no objections from the Board.

Mr. Karlebeck begins his testimony. He is asked by Mr. Soukas to please tell the Board the areas he reviewed and how he is familiar with the property.

Mr. Karlebeck explains he has reviewed the application materials including the Architectural drawings. He had also reviewed the Municipal Zoning Ordinance and Master Plan. He has visited the Site and the surrounding area and has photographed the site.

He reviews with the Board the description of the property and the various hardships. States it is a corner lot, undersized in an area where it is dominated by 5000sf lots. He would venture to say every lot in this neighborhood is non-conforming... The zone requires 6500sf lots and they will find the vast majority of lots in this particular area are 5000sf.

Mr. Karlebeck continues. The lot is developed with a small two family home, he reiterates small because the Tax Assessor's Office had livable area posted at 1116sf and he believes the Architect calculated 1308sf. This is small by modern day standards.

Mr. Karlebeck explains typically today what new construction requires...or what people demand.

Testimony continues....

Mr. Karlebeck reviews what has already been testified by the Architect regarding the proposal and what they plan to do, renovate the first floor, and expand the 2nd story adding a Dormer to a full 2nd story. The building will remain as a two family home and increase by approximately

315sf. A modest expansion but because this is such a small lot, it raises the FAR from .36 to .4275.

Mr. Karlebeck continues...the two car garage is proposed to remain and approximately 108sf of the existing driveway was already removed. The new deck off the 1st floor will replace an existing deck, an existing shed and Slate walkway are proposed to be removed. The site improvements result in an overall reduction in impervious area. The proposed 6ft. fence is board on board, approximately 24ft. in length that is proposed along the 2nd Street side of the property.

Testimony continues. Mr. Karlebeck reviews all the calculations with the Board and states he is presenting this application as an expansion of a non-conforming use for a D2 variance application and a D4 variance application for exceeding the FAR.

He explains although this is an expansion case, it is not an expansion in a traditional manner, and he states this because it will be the same number of dwelling units...no increase in Density. No increase in Traffic, no increase in the amount of Refuse generated, limited Land disturbance. No increase in the demand for Municipal services.

Mr. Karlebeck reviews the permissible FAR with the Board but explains the Garage is included with this and if the 490ft was subtracted out of this number, it would leave 1490sf...divided by Two dwelling units is rather small, that leaves 750sf per unit, permissible and is substandard by modern day calculations. Reviews the Bulk variations, resulting in a reduction of building coverage, reduction in impervious area coverage, maintaining existing side yard setbacks and maintaining the front yard setback on both 2nd Street & Berdan. A reduction in driveway width, there is also a C variance, due to the location of the board on board fence within the front yard setback.

Testimony continues....

Mr. Karlebeck reviews the Ordinance and proofs submitted. Notes he can say just by driving through the neighborhood, it is quite consistent and compatible with the existing pattern of development that is going on right now. Reviews statistics of the U.S. Census Bureau of homes today...

Mr. Karlebeck states he believes the site can accommodate this increase in FAR, the increase is minimal. The site will continue to function exactly as it does today. The only difference is the side entrance to the one unit has been moved to the rear of the property...

The building footprint essentially remains the unchanged. He believes this application advances several important purposes of the MLUL. One is to provide a desirable, visual environment for creative development techniques and good design. He believes this renovation will have an immediate impact on beautifying the site.

Mr. Karlebeck passes an Exhibit to the Board.

Entered in Evidence as Exhibit A12.

Exhibit A12-Series of 3 Photographs taken by Mr. Karlebeck.

Mr. Karlebeck reviews the photos with the Board. Proofs of how it fits into the neighborhood with other homes and will not affect Open Air, space, etc....this proposal will not dwarf any home in the neighborhood.

Reviews the necessity of the privacy fence...

No increase to the Density.

Site is particularly well suited for the use.

Little to no impact and proposal visually improves the neighborhood.

There is no negative criteria. There is no foreign use being introduced onto the property.

The size & scale of this home is consistent and compatible with the neighborhood.

Benefits are harmonious. Consistent Architectural form outweigh any perceived detriment and he has not identified any detriment whatsoever.

Testimony continues.....

No proposed increase to the height of the building.

Mr. Karlebeck agrees this proposal is consistent with the 2014 Master Plan and its recommendations. Reviews...

Mr. Karlebeck concludes his testimony by stating the Public benefits to be derived from this application are greater appearance to the neighborhood, having a harmonious housing style, etc...

Mr. Soukas (Applicant's Attorney) has no further questions of his witness.

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

Mr. Newman (Chairman) asks Mr. Karlebeck if the Garage was excluded from the FAR would they still be seeking a FAR variance.

Mr. Karlebeck verifies calculations and testifies without the Garage no FAR variance would be required.

Mr. Racenstein (Board Member) questions what type of air conditioning will be servicing this home.

Mr. Fantacone (Applicant) testifies it will be window air conditioners.

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

Seeing none,

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

Mr. Newman closes this portion.

Mr. Newman opens to members of the General Public. Seeing none,
Mr. Newman closes this portion.

Mr. Soukas (Applicant's Attorney) would like to bring Mr. Fantacone back up to the Podium.

Mr. Soukas notes Mr. Fantacone has already been sworn and remains under Oath.

Mr. Soukas explains to Mr. Fantacone some questions were raised as to reducing the size of the driveway, can he please provide some background to the Board as to why and when this was taken care of this improvement.

Mr. Fantacone explains when he purchased the home in 2005, the original macadam for the driveway extended from the far side of the property, almost all the way to the bilco doors of the house. It was not visually appealing. He hired a Contractor, tore up roughly about 10-15ft of it and extended it to where it is now. It created an esthetically visual improvement of what was there prior to him doing so.

Mr. Soukas asks Mr. Fantacone to provide the Board with some background as far as his decision to put the fence where it is proposed.

Mr. Fantacone explains his privacy and security for his family is paramount to having this fence. Being on a busy corner, kids running in the backyard.

Mr. Newman (Chairman) reiterates the reason for the variance. The Borough counts your side yard as a front yard because it fronts 2nd street (corner lot).

Mr. Soukas asks Mr. Fantacone if he is in full agreement with all testimony from Mr. Karlebeck and Mr. Reda.

Mr. Fantacone testifies yes he is.

Mr. Soukas has no further testimony for his witness.

Mr. Newman asks if there are any questions for Mr. Fantacone from Board Members. Seeing none, asks Mr. Soukas if he would like to summarize.

Mr. Soukas summarizes by thanking the Board and stating he has prepared this evening all the proofs they would require to consider and hopefully approve the application. Reviews the variances necessary & hopes they have provided all the professional testimony needed to do so. Feels Mr. Karlebeck's testimony was persuasive and respectfully submits this proposal does not present any substantial detriment to the Zoning Plan or Zoning Ordinance. For these reasons, they respectfully ask the Board to grant the relief requested this evening.

Mr. Newman (Chairman) asks for a motion.

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

VOTE: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh & Mr. Newman, **YES.**

Motion Carries.
Application Approved.

Mr. Newman requests a 5 minute Recess.
Mr. Newman re-opens the Meeting.

Roll Call: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh & Mr. Newman, **Present.**

Residential New Business:

1. Application#2014-11, Trigub
39-16 Tierney Place, Block 1608, Lot 6, Zone R-1-2
Rebuild of a non-conforming structure. Maintain the existing front yard setback of 24.9' where 30' is required. Ordinance 125-32 provides for expansion of a non-conforming structure provided the requirements are met. Any non-conforming structure may be continued upon the lot, may be restored or repaired in the event of a partial destruction. The proposed removal of most of the existing structure will exceed the partial destruction requiring a variance to rebuild as per Section 125-32.B.1.

Fees have been paid and there is proof of Service.

Mr. Newman swears in: Oleg Trigub (Applicant)
39-16 Tierney Place
Fair Lawn, N.J

Mr. Newman asks Mr. Trigub to please proceed and explain why he is here this evening.

Mr. Trigub begins his testimony by stating to the Board he and his family would like to expand their existing home. They have an existing offset of 24.9' from the road where 30ft. is required. They will be building a garage which would be a little larger than 28ft. from the road also. They are seeking a variance to maintain the front yard offset.

Mr. Newman tries to clarify what Mr. Trigub means when he states offset. Mr. Newman clarifies it is the setback.

Mr. Trigub so notes this correction & states he has his Architect with him this evening and he can answer any questions.

Mr. Newman asks if this is only an existing setback issue.

Ms. Peck (Assistant Zoning Officer) interjects to state they are also a non-conforming. Explains the structure will be taken down completely to the first floor so they lose the non-conformity because they exceed the partial construction Ordinance. Explains the Ordinance, if it is more than partial destruction, a variance is required to rebuild.

Discussion. Clarification on what is the existing non-conformity.

Ms. Peck states it would be the existing front yard and they are expanding. They already took the structure down.

Mr. Newman asks Ms. Peck; because the structure was removed prior to this application, they are unable to determine if there were any other non-conformities?

Ms. Peck explains no, the only non-conformity is the front yard and the fact they are removing more than a partial destruction. They lose the non-conforming status so they have to get a variance to rebuild.

Mr. Newman clarifies; they need a variance to rebuild with the non-conforming setback of 24.9ft.

Mr. Rosenberg (Board Attorney) questions Ms. Peck on the expansion. He wants to be clear before proceeding.

Ms. Peck clarifies and states they are actually looking to rebuild an existing non-conformity they removed on the same footprint.

Discussion continues....

Mr. Rosenberg (Board Attorney) clarifies to the Board, the issue is; they lost their Grandfathered rights because of the fact there was more than partial destruction of the existing structure.

Ms. Peck states a lot of Towns do have a Grandfathered clause, Fair Lawn does not.

Mr. Newman swears in: Bogdan Szacillo (Architect)
19 Belmont Ave
Madison, N.J

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

Mr. Newman asks Mr. Szacillo to proceed.

Mr. Szacillo begins his testimony by describing the existing conditions and the Proposal. This is an existing split level where unfortunately one of the corners of the house projects into the front yard setback. What they are proposing is to expand the house but keep within the existing footprint. Explains...it is non-conforming and this is why they are here. The reason why this corner extends into the front yard setback is the shape of the property.

Mr. Szacillo explains...refers to the proposal and notes the shape of the property. The property is not rectangular. Zoning refers a lot to the rectangular properties when referring to setbacks and property lines. Points to the curving of the property and how it curves with the front line, thereby the west side of the corner is away from the setback, the east corner projects into the setback. It is a handicap to his client because of the irregular shape of his property.

Mr. Szacillo speaks to the driveway. States because of the irregular shape of the curb, it is really hard to negotiate the curb and his client is always afraid to turn the car in and out of the driveway because of the difficulty of the turn, therefore his design was to turn the driveway 90degrees to the curb line and turn the Garage the same way. The house will stay on the same footprint with the addition but the garage will turn parallel to the curb.

Mr. Szacillo testifies to the changes proposed. They will remove the first floor of the existing house but the 2nd floor with the corner of it overlapping will be a cantilever over the new garage. The Garage they tried to put as close as possible to the setback but it will project approximately 1.8ft., and the reason for this is because they could not structurally support it comfortably for the existing 2nd floor.

Mr. Szacillo states it was difficult to design this expansion without seeking the variance relief for the front yard because of the irregular shape of this property.

Mr. Newman (Chairman) notes the Garage and clarifies with Mr. Szacillo this garage will be on a completely different angle to the rest of the home.

Mr. Szacillo states yes because it is unsafe to negotiate the turn. It will be safer and will bring some interest esthetically to the home creating shadows lines through unconventional shapes.

Mr. Newman questions if there is anything this unconventional in the neighborhood.

Discussion.

Mr. Szacillo testifies except for the angle of the garage, everything else is pretty conventional. When you think of a garage, it should be parallel to the curb.

Mr. Newman understands why he designed it this way, he just thinks it is very unusual.

Discussion continues...

Mr. Newman asks Mr. Szacillo why he just doesn't turn the whole house.

Mr. Szacillo explains they are leaving part of the foundation and 50% of the existing house stays, it is not a total demolition so therefore...

Mr. Newman was under the impression it was a total demo.

Mr. Szacillo testifies no it is not.

Mr. Newman asks if any Board Members have questions for Mr. Szacillo.

Mr. Racenstein (Board Member) refers to the driveway and agrees there is a little difficulty backing out, but there is not much traffic going down that street. He does not feel the design will conform to the rest of the homes on Tierney place and feels it will be an eyesore.

Discussion...

Mr. Newman questions the loss of living space in the home and noting an odd shaped room behind it.

Mr. Szacillo testifies there will be an odd shaped room but they negotiated with interior design of it.

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

Mr. Newman opens the Application to Residents living within 200ft of the Applicant. Seeing none, Mr. Newman closes this portion.

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

Mr. Newman asks for a motion.

Mr. Seibel makes a motion to approve the application.

Mr. Newman interjects before asking for a 2nd motion, he would like to give some ideas for consideration to the Board. Explains there was a time when they appealed an Ordinance where the Board would see applications all the time for non-conforming setbacks when they would do Add-a-Levels or any kind of improvements and if you had an existing non-conforming front yard such as this you were required to come before the Board and the reason for this was because the Borough was working on the FAR Ordinance and it was their way of trying to put every application before the Board so they could take a look at it. In the end, because these are existing non-conformities and you can't just push a house back because they decide they want to go up. He doesn't remember a time where the Board denied an application based on this. What blands this application before us is different but in a lot of ways similar because the non-conformity is an existing setback. This application, he believes would not be before them if they decided to demolish a little less than what they did. (Clarifies with Ms. Peck)

Ms. Peck (Assistant Zoning Officer) states yes. If they kept more than 50% of the original structure, they would not be here.

Discussion...

Mr. Newman notes to the Board to bear this in mind when voting on this application.
Mr. Newman asks for a 2nd vote to Mr. Seibel's motion.

Mr. Pohlman seconds the motion for approval.

VOTE: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Pohlman, Mr. Naveh & Mr. Newman, **YES.**

Motion Carries.

Application Approved.

2. Application 2014-12, Itkin
17-09 Greenwood Drive, Block 3701, Lot 16, Zone R-1-2
Existing non-conforming lot. Lot is 67.1'X 112.8' where 75X100' is required.
Proposal is to rebuild the structure using the existing foundation and expand the structure.
C1 variance is required as per section 125-57.D.(1)(C)[1]

Fees have been paid and there is proof of Service.

Gentleman steps forward on behalf of Mr. Itkin.
Begins his testimony.

Notes his client is seeking a variance of a non-conforming lot. It should be noted the applicant complies with all other setbacks and all requirements of the Borough. They are here tonight because of the existing lot which is 67.1' X 112.8' where 75X 100 is required
Gentleman explains the proposal is to rebuild the structure using the existing foundation and expand on the structure.

Mr. Newman stops testimony to clarify a few things. Asks the Gentleman to identify himself.

Apologies to the Board and identifies himself as Attorney Mr. David Mayland here on behalf of his client, Mr. Itkin.

Mr. David Mayland
Styklar Associates
70 E.Ridgewood Avenue
Ridgewood, N.J.

Mr. Newman clarifies the existing non conformities.

Mr. Newman swears in: Vladimir Itkin (Applicant)
40-04 Tierney Place
Fair Lawn, N.J.

Mr. Itkin begins his testimony. He tells the Board he has lived in Fair Lawn since 2002. The house at Greenwood Drive will definitely be their primary residence after the construction is finished.

Mr. Itkin answers the question from his Attorney regarding the existing structure.

Mr. Itkin explains the existing structure will be demolished to the ground level, however they will maintain the foundation in the basement. The existing house is old, it is not in good shape. There was old Termite damage and this is why they would like to build a new home.

Mr. Mayland (Attorney) asks Mr. Itkin if he has discussed this proposal with his adjoining property owners, to which Mr. Itkin replies yes and received no objections from them.

Mr. Itkin continues his testimony. He would like to stay in Fair Lawn and feels this home would best meet the needs of his family.

Mr. Mayland has no further questions for his client, Mr. Itkin.

Mr. Newman (Chairman) asks if there are any questions from the Board. Seeing none,

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

Mr. Newman closes this portion.

Mr. Newman asks if there are any questions from the General Public. Seeing none.
Mr. Newman closes this portion.

A Gentleman interjects to ask a question.

Mr. Newman asks if he is a Resident within 200ft. of the Applicant. He answers no.
Mr. Newman then asks if he is a member of the General Public because he did just close this portion but he will make an exception and asks him to come to the Podium.

Mr. Newman swears in: Waldemar Wysocki
15 Lehigh Avenue
Clifton, N.J.

Mr. Wysocki has a question in reference to the required variance. Refers to Chapter 125-32, it allows properties to be modified or a structure to be modified. The only requirement that is not in compliance here is the width of the property. Does it mean if he were to buy any undersized property in Fair Lawn and build from scratch a new house on the property with all requirements met, would he still need to go through a variance procedure? If so, he would like to mention this is applicable to 2/3rd of all Residential properties in Fair Lawn and he is not sure if the Board is aware of this.

Ms. Peck (Assistant Zoning Officer) interjects to say she can answer this question.

Ms. Peck explains the Borough Ordinance 125-32.C. permits enlargements of valid non-conforming residential building or structure, provided you meet the criteria, but the Ordinance is silent on building on an undersized lot. The Borough does not have a Grandfathered clause that would permit you to build on an undersized lot without a variance.

Mr. Wysocki states the Chapter is named-“non -conforming lot” uses (inaudible) he believes this indicates also to the property itself as well. He states Ms. Peck explained her interpretation, but he would like to point out that he knows of several buildings in the neighborhood which was constructed on undersized lots with several non-conforming setbacks.

Mr. Newman (Chairman) interrupts Mr. Wysocki. States he was under the understanding he came up as a member of the General Public and it sounds like he is attached to the application...

Asks Mr. Mayland (Attorney for the client) if he is involved with the application.

Mr. Mayland states he was not going to call him as a witness and was unaware he was going to speak.

Mr. Wysocki testifies he is associated with the Architect working on this project.

Mr. Newman states to Mr. Mayland they will consider Mr. Wysocki’s words as testimony.

Mr. Mayland again states he was not aware that Mr. Wysocki was going to attempt to give testimony.

Discussion.

Mr. Rosenberg (Board Attorney) notes he (Mr. Wysocki) is seeking an advisory opinion which this Board will not give.

Mr. Mayland understands this. He is ready to proceed with the Architect's testimony...was not in any way aware of this and apologizes for the interruption.

Mr. Mayland calls his next witness. Mr. Bogdan Szacillo (Architect)

Mr. Newman notes Mr. Szacillo has been previously sworn but being it's a separate application, he will swear him in again.

Mr. Newman swears in: Mr. Bogdan Szacillo
19 Belmont Ave
Madison, N.J.

Mr. Szacillo was previously certified as an Expert in the Field of Architecture.

Mr. Szacillo begins his testimony.

Mr. Mayland (Applicant's Attorney) would just like to clarify Mr. Wysocki is associated with his office.

Mr. Szacillo testifies they work together. He is his Associate and clarifies for Mr. Mayland and the Board they were unaware of his impending questions.

Discussion.

Mr. Szacillo begins to describe the project proposed. This is completely new construction. The existing house will be demolished and the new construction will comply with all Zoning requirements. Front yard, side yard, height of building, FAR. All will conform.

Mr. Szacillo notes the only requirement they do not meet is the curb of the property.

Mr. Mayland (Attorney) clarifies for the record that he is the Architect that signed all the plans that were submitted to the Board here today, this being 8 sheets. Listed as A1 thru A8

Mr. Szacillo testifies yes. Continues with his description of the proposal. The shape of the property puts his client in a handicap. Refers to Exhibit A1 in the left hand corner which shows all the property setbacks as well as the Zoning Schedule.

Mr. Szacillo explains it will be a 2 ½ story house with a two car Garage, a Living room, Kitchen on the 1st floor and the 2nd floor there will be 4 Bedrooms & an Office. This is very modest size house for the area and will fit into the character of the neighborhood.

Mr. Szacillo refers to the Photos of the surrounding properties. He cannot change the frontage of the property but is trying to build the best house within the Bulk requirements of Fair Lawn.

Mr. Newman (Chairman) asks Mr. Szacillo if he could design a house on this property in any way that would not require them to be here this evening.

Mr. Szacillo testifies no. He cannot change the frontage on the property.

Mr. Newman asks if there are any questions from Board Members for Mr. Szacillo. Seeing none, Mr. Newman closes this portion.

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

Mr. Newman asks Mr. Mayland if he has any further witnesses and if not, he can summarize the application.

Mr. Mayland states he will be brief with his summary. Explains how they cannot change the frontage of the property and have tried to comply with all the aspects of the Borough of Fair lawn's Bulk requirements. They believe it will be a contribution to the value of the neighborhood and improve the use from the existing house with prior Termite damage. They are trying to build a house to live comfortably with their family and he submits the positive criteria is clearly met and there is no negative criteria in connection with this application and no objectors. He respectfully asks the Board to grant this variance.

Mr. Newman asks for a motion.

Mr. Sina makes a motion to approve the Application.
Mr. Gil seconds the motion.

VOTE: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh,
& Mr. Newman. **YES.**

Motion Carries.

Application Approved.

3. Application #2014-13, Grambone
5 Pomona Avenue, Block 6902, Lot 14, Zone R-1-3
Proposed expansion of an existing non-conforming structure. Maintain the existing front yard setback of 6.22' where 25' is required as per Section 125-12 Schedule of area yard and building requirements. Exemption 125-32.C. (4) requires the existing front yard be more than 50% of the requirement where 25' is required.

Fees have been paid and there is proof of Service.

Mr. Newman swears in: Robert Murphy (Architect)
13 Bradrick Lane
West Milford, N.J

Mr. Newman proceeds to ask Mr. Murphy if he is here alone on this application or is the Homeowner here with him.

Mr. Murphy states the Homeowner's son is behind him. He will call him to testify if they need anything to clarify.

Mr. Newman clarifies with Mr. Murphy that he will be the sole person to present the case and give testimony in the area of Architecture and call the Applicant if necessary.

Mr. Murphy states yes.

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

Mr. Murphy begins his testimony and explains Mr. Grambone would like to add a 2nd level to his existing two bedroom house, approximately 800sf. It will be a one family house with 4 bedrooms. They are looking for relief from a non-conforming structure where the setback requirement is 25' in the front and the existing house is 6.22' from the front yard.

Mr. Murphy states he is adding a full 2nd story that will be a little over 13ft from the property line in the front.

Discussion.

Mr. Newman has a question for Ms. Peck (Assistant Zoning Officer) asks if there are two variances that need to be granted here or just one.

Ms. Peck clarifies for Mr. Newman. They are not taking any of the 1st floor down, therefore they are maintaining more than 50% of the structure but one of the exemptions requires the front yard be more than 50% of the requirement which 6ft is not, so they do not meet the exemption to expand the non- conforming.

Discussion.

Ms. Peck does confirm there is two. The non-conforming expansion and the front yard.

Mr. Seibel (Board Member) clarifies and notes if he had been back 12 1/2ft. he would have met the exemption rule that allows the expansion of a non-conforming without the need for a variance.

Mr. Murphy(Attorney for the Applicant) continues with his testimony and states they feel it is in character with the other houses on the street whereby most are pretty close to the front and do have a 2nd story on it. It will be a simple side to side Gable house that will look a lot nicer with Shutters and painted trim. It will be going from a two bedroom to a four bedroom and there is a detached two car garage with a long driveway so holding 5-6 cars will not be a problem at all.

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

Mr. Seibel (Board Member) in review of the proposal notes the only thing he could imagine to do would be to knock down the front porch.

Mr. Murphy notes this is 6ft. approximately 6.22ft but they are putting a roof on that to make it look nicer but are not adding above this at all.

Discussion....

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

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

Mr. Newman swears in: Michelle Quinn
8 Smith Avenue
Fair Lawn, N.J.

Ms. Quinn is concerned with damage to her property with this construction and runoff because Mr. Grambone built a house right next door to this house and she is having a lot of issues with drainage and runoff and her shed is flooding along with mud all over her property. She would like to be sure all the drainpipes and everything is situated where no extra water would be running off into her property.

Discussion.

Mr. Murphy explains they will not be adding any more impervious area or hardscape. It will be the same exact area of runoff. There is no change at all.

Discussion.

Ms. Quinn testifies it is 3 Pomona which has runoff issues.

Mr. Newman asks Ms. Quinn if there are any existing issues on **this** property, 5 Pomona regarding runoff.

Ms. Quinn testifies no but wanted to be sure there would be no changes to cause any issues.

Mr. Newman lets Ms. Quinn know the reason he wanted to be sure there was no issue of runoff from this property was because they would have to address those issues this evening.

Mr. Newman clarifies with Mr. Murphy there will be no need for any retention basins to mitigate any runoff onto this property or any other property.

Mr. Murphy testifies no. It will be the same exact runoff and he is not aware of any issues with runoff with this property.

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

Mr. Newman closes this portion.

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

Mr. Newman swears in: Pamela Coles
13-34 George Street
Fair Lawn, N.J.

Ms. Coles clarifies the current frontage at 25ft. and the existing foundation at 6.22ft.

Ms. Coles clarifies with the Zoning Board, they would have to maintain 50% of the requirement of 25ft. or 12.5ft., stating it puts the Zoning Board in a sticky situation and they are also redoing the Master Plan because we always keep being deviated from.

Mr. Rosenberg (Board Attorney) asks if she is up here as a Member of the General Public to which Ms. Coles replies yes.

Mr. Newman wants to be sure she is testifying as a member of the General Public and not as a member of the Planning Board.

Ms. Coles replies she is not. She is commenting as a member of the General Public. She is curious how to rectify this situation and to keep in alignment with the current Laws and Regulations as well as, would this home be overpowering to the existing homes which are of smaller nature and now they want to put a full 2nd story. Although she is all approving of improving Residential homes in Fair Lawn.

Mr. Murphy (Architect) asks Ms. Coles to please ask a specific question and he would be happy to answer them one at a time.

Ms. Coles complies and reiterates the current zoning laws which is 50% of the 25ft. or 12.5 ft. currently they would have to find another 6ft. to meet the minimum requirement. The Zoning Board is being put in a very sticky situation in her opinion given the current laws and they are being deviated from.

Ms. Coles asks Mr. Murphy what he would recommend if they had to keep with the existing laws.

Mr. Murphy understands what Ms. Coles is trying to say and states they did consider this but it would not get the square footage needed or the Bedrooms up there. It is a growing family and they would like to make it a 4 Bedroom home.

Discussion on the setbacks...

Mr. Murphy explains the house is 13ft. from the property line right now, the 2nd floor addition.

Mr. Newman (Chairman) interjects to state to Ms. Coles; the Applicant would have to demolish the home to accomplish what she is suggesting.

Discussion continues...

Ms. Peck (Assistant Zoning Officer) clarifies the Ordinance requires they measure the setback from the most protruding portion of the structure, therefore the porch is the most protruding so that is where they are measuring the 6ft. from. It does not matter if you set the 2nd floor back, she would still have to measure from the porch.

Discussion....

Ms. Coles understands but her concern is if they keep deviating from the current laws, they are just going to have...this is just her own public statement.

Mr. Newman discusses this with Ms. Coles and notes he does not believe the Zoning Board is in any sticky situation. It is the function of the Board, to grant variance relief when variance relief is within reason. It is not a deviation from Laws or Re-Zoning. It is variance relief and that is why Zoning Boards exist. Zoning Boards don't exist to not allow any deviation from current

Ordinances, they exist to allow deviation when they are within reason. This application is not sticky. It is a pretty straightforward setback issue and would probably be deemed unreasonable by the Courts if they denied them because they refused to demolish part of their structure which is an existing non-conformity.

Ms. Coles understands and was asking and coinciding with and being sensitive to the other homes in the area. The frontage will be so far protruding forward and the other homes in the area are smaller in nature. What of the height?

Discussion continues....

Mr. Newman notes the height that is being added is being setback and there is no variance required for it.

Ms. Coles is satisfied with this and has no further questions or comments.

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

Mr. Newman close this portion.

Mr. Racenstein (Board Member) questions the drainage problem. He knows Mr. Murphy has testified to no knowledge of a drainage issue now but you can never tell what is down the road. Asks Mr. Murphy if it would be feasible to have the gutters running off to the front of the house instead of the back or the sides.

Mr. Newman interjects to explain to Mr. Racenstein that currently there is no runoff issue on the property so there is no reason to even suggest this. He does not feel this needs to be entertained at all.

Mr. Newman asks if there are any other questions from Board Members. Seeing none, Mr. Newman closes this portion and asks for a motion.

Mr. Naveh makes a motion to approve the Application.

Mr. Seibel seconds the motion.

VOTE: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh & Mr. Newman, **YES.**

Motion Carries.

Application Approved.

4. Application 2014-14, Matriss
2-34 Kenneth Ave, Block 4324, Lot 1, Zone R-1-3
Proposed replacement of an existing 5' fence in the front yard setback and replace with a 6ft. fence where only 3ft. is permitted as per Section 125-38 Fences & Walls.

Mr. Newman swears in: Shawn Matriss (Applicant)
2-34 Kenneth Ave
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Mr. Newman asks Mr. Matriss to please explain why he is here tonight.

Mr. Matriss explains he is here tonight to get relief or a variance for a fence he is trying to replace. He bought the property two years ago and the fence was existing. He went to the Zoning Department to replace the fence and found out there was no permit on file. He spoke to some of the neighbors who state it has been up for at least 10yrs.

Mr. Matriss continues his testimony stating the existing fence is a 5ft. fence. Refers to pictures submitted, it sits on a 6-8inch platform. He thinks there was a pool there at one time and again, they could not find a permit for the pool. He is looking to replace the fence. It is broken and old, it sits behind a 7-8ft. hedge so you really can't see it from the side street. It is at least 40-50ft, back from the corner so there is no problem with the site line or blockage of view. There is only two homes on this block, one being his own and one his neighbor.

Mr. Newman clarifies this as his side yard although the Borough looks at it as his front yard because it is on a corner lot. He is looking to replace the existing 5ft. fence but has a question for Mr. Matriss. In his testimony, did he say it sits up on something?

Mr. Matriss testifies it sits up because the previous owners must have had a pool, and he guesses they wanted to level it off.

Discussion.

Mr. Matriss explains he is looking to level the entire portion of the yard because there is no grass or anything there.

Discussion.

Mr. Newman asks what type of fence it will be.

Mr. Matriss testifies it will be a white PVC.

Mr. Newman asks if he would consider Lattice.

Mr. Matriss replies he would consider anything to go home.
(Laughter)

Discussion with Mr. Matriss on how it could be beneficial to doing the Lattice rather than the Solid fence.

Mr. Matriss agrees to do the Lattice Top.

Ms. Peck (Assistant Zoning Officer) mentions to the Board she had a discussion with the Applicant regarding the existing fence. He is aware the fence is over the property line and will insure it will be put within his property line.

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

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

Mr. Newman closes this portion.

Mr. Newman asks if there are questions or comments from the General Public. Seeing none, Mr. Newman closes this portion and asks for a motion.

Mr. Racenstein makes a motion to approve the application.

Mr. Pohlman seconds the motion.

VOTE: Mr. Gil, Mr. Seibel, Mr. Sina, Mr. Racenstein, Mr. Pohlman, Mr. Naveh & Mr. Newman, **YES.**

Motion Carries.

Application Approved.

Mr. Newman opens for Public Comment. Seeing none.

Mr. Newman closes this portion.

Resolutions:

1. Application 2014-09, Donald & Christine Morris,
1 Addison Place, Block 3724, Lot 13, Zone R-1-3
Corner lot. Accessory located with front yard setback requires 35'.
Proposed Air Conditioner located 10' from Front yard setback-**Approved**

Mr. Sina makes a motion to approve this Resolution and Mr. Gil seconds the motion.

VOTE: All Present: AYE

2. Application 2014-07, Derek & Renee Bruno
3-29 17th Street, Block 4307, Lot 33, Zone R-1-3
Proposed 2nd floor Addition - **Approved.**

Mr. Gil makes a motion to approve this Resolution and Mr. Racenstein seconds the motion.

VOTE: All Present: AYE

3. Application 2014-08, Lugo & Danielle Gomez,
39-45 Sunderland Drive, Block 1206, Lot 3, Zone R-1-3
Proposed Addition/Renovation – **Approved**

Mr. Sina makes a motion to approve this Resolution and Mr. Gil seconds the motion.

VOTE: All Present: AYE

Vouchers:

1. Winnie Banta Hetherington Basalian & Kahn in the amount of \$816.66 for Professional
Legal services to the Zoning Board of Adjustments for the month of June, 2014

Mr. Sina makes a motion to approve this voucher & Mr. Pohlman seconds the motion.

VOTE: All Present: AYE

2. Winnie Banta Hetherington Basalian & Kahn in the amount of \$315.00 for Professional Legal services rendered to the Zoning Board of Adjustments for Rici Realty.

Mr. Sina makes a motion to approve this voucher and Mr. Gil seconds the motion.

VOTE: All Present: AYE

Minutes:

Mr. Seibel makes a motion to approve the minutes of April 28, 2014 and Mr. Sina seconds the motion.

VOTE: All Present: AYE

Mr. Racenstein makes a motion to approve the minutes of May 19, 2014 and Mr. Seibel seconds the motion.

VOTE: All Present: AYE

Adjourn:

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

TIME: 10:30 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk