

**BOROUGH OF FAIR LAWN**  
**ZONING BOARD OF ADJUSTMENT**  
**Regular Meeting Of March 24, 2014**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on March 24, 2014.

Chairman Todd Newman called the regular meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Seibel, Mr. Sacchinelli, Mr. Sina, Mr. Racenstein,  
Mr. Pohlman, Mr. Lowenstein & Mr. Newman

Absent: Mr. John Gil, Mr. Brian Blecher, Mr. Kevin Puzio

Also in attendance were Bruce Rosenberg, Board Attorney; Laura Calucci, Court Reporter; Ann Peck, Assistant Zoning Officer, Cathy Bozza, Zoning Board Secretary & Board Professionals: Board Engineer: Paul Azzolina, Traffic Engineer: Mark Kataryniak & Board Planner: Paul Kittler (Representing Peter Van Den Kooy/CME Associates)

Mr. Seibel (Board Member) leads the Pledge of Allegiance dedicating it to one of our fallen soldiers.

Mr. Newman swears in Newly Appointed Alternate, Mr. Avi Naveh as Alternate IV. All welcome him to the Zoning Board.

Mr. Newman opens:

**New Residential:**

1. Application#14-002, Yael Zilberman  
21-24 Christine Court, Block 1501, Lot 5, Zone R-1-2  
Proposed 12x26 In-ground Pool and two story addition. Would increase the impervious coverage from 31.2% to 41.9% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.  
Would increase the FAR from 34.5% to 43.5% where 40% is permitted.  
Requires a D-4 FAR Variance as per Section 125-57.D.(1)(d)[1]

Mr. Newman swears in: Yael Zilberman  
21-24 Christine Court  
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Mr. Newman notes the Professional here this evening for Ms. Zilberman.

Mr. Newman swears in: Frank Hall (Architect for the Applicant)  
27 Chestnut Street  
Ridgewood, N.J.

Mr. Newman certifies Mr. Hall as a Licensed Architect with no objections from the Board and accepts Mr. Hall as an Expert Witness in the field of Architecture.

Mr. Hall begins his testimony explaining his clients hired him to design an addition and make alterations to their home to bring it up to a more modern lifestyle.

The home is a Bi-Level style home from the mid 1970's, very similar in character to the rest of the homes in the neighborhood. It is on a conforming lot.

The addition consists of a two story addition on the right rear of the home.

Mr. Hall refers to the site plan submitted-Sheet A1.

Review from Board Members....

Mr. Hall continues with his testimony....

Mr. Hall then refers to Sheet A2- which depicts the Floor Plan which describes the character of the new space which consists of a new Family Room behind the Dining room/kitchen area with a game room on the ground floor below it.

Mr. Hall explains the reason they are here tonight. There is a requirement for variance relief for impervious coverage of 41.9% where 35% is allowed and the FAR of 43.5% where 40% is allowed.

Mr. Hall explains the impervious coverage was generated by the proposed pool & the patio in the backyard. They looked at the project with and without the at grade improvements of this and prior to this, we were in conformance with the impervious coverage...but to do anything in the way of Outdoor Improvements, it put us over the Impervious coverage.

Mr. Hall also states part of this overage is the double width driveway with a two car garage at the front of the house which weighs against the impervious coverage significantly.

Mr. Hall refers to the overage on the FAR explaining in the Ordinance there is a stipulation that if a Garage is over 500sf. it counts towards the FAR. The Garage is over 500ft. so the two car garage is a little larger than most. The entire garage counts as FAR.

Mr. Hall explains because this is a Bi-Level style home, where all of the square footage of the home is above grade. Explains.....

Discussion....

Mr. Newman notes the Ordinance was written the way it was because with a Bi-Level, the level is completely exposed which adds to the physical Bulk of the exterior.

Discussion.....

Mr. Hall notes the addition is not excessively high which suggests to him, as well as weighing FAR, they should weigh the measure of building coverage as also a good predictor of how bulky the building really is...states to the Board members this is a very normal height for the neighborhood. They are not doing anything higher than the existing house or any of the other homes.

Discussion continues....

Mr. Hall continues with the review of the proposal, explaining the other alterations proposed, new stucco finish, new windows throughout and a Deck in the rear which stands on its own coverage percentage. They are within the allowable 5%.

Mr. Hall refers to Sheet A-3 which depicts the finish and the windows...

Mr. Newman questions the difference between a Family Room and a Game Room.

Mr. Hall explains the Game room is more geared towards the kids, a more informal space where a Family Room is an Adult space.

Discussion.....

Mr. Newman asks if these rooms have the proper egress to be used as Bedrooms.

Mr. Hall explains any room with a door to the exterior would comply with egress requirements just as well as an egress windows would. He did not size the windows specifically to make it useable for egress as a bedroom. They have two bedrooms on the first floor and the second floor bedroom space was aggregated together as a Master Bedroom Suite because it was really the only place to put it and the other two bedrooms were moved to the lower level. In total 3 Bedrooms.

Mr. Newman asks if there is any intent to change one of these rooms to a Bedroom or a separate living space at any point in time.

Mr. Hall testifies this was never discussed in the course of design. There was nothing to give him any indication this was an intention.

Mr. Newman notes there is a door from the outside into the Game Room.

Mr. Hall explains the reason behind this and testifies it leads to the Outdoor Living Space. It's for Recreation, where the kids are playing downstairs and can go right outside to the Pool.

Discussion continues....

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

Mr. Seibel (Board Member) asks if this is the only entry the 1<sup>st</sup> level has, through the Game room?

Mr. Hall answers yes. Other than coming down the stairs from the front door, there is a door in the back we call the existing basement, the space behind the garage where mechanical equipment is.

Mr. Seibel questions Mr. Hall on this back Game Room entry/exit. Because this is the only way in & out, it would preclude it from ever making this a Bedroom unless a wall was ran across....

Mr. Hall states if this did become someone else's dwelling unit, they would have to cut off any kind of Recreational access through the main house which would not be consistent with making an investment such as this...a new pool and a pool patio with proposed landscaping...

Mr. Hall reiterates what they are doing here is what most people in the area are asking us to do with their homes, and this is to bring it up to a more modern lifestyle, like glass double doors out to patios & outdoor living spaces...

Discussion continues.....

Garage square footage is discussed.

Mr. Newman states it has been brought to his attention, in the index of drawings there is reference to an E-1 & an SP-1 which the Board does not have.

Mr. Hall explains the drawings are set up for potential instruction documents. They are for the future and have not been drawn up yet. If they are granted an approval, then they would move on to construction documents which would include these sheets.

Mr. Lowenstein (Board Member) notes there are 3 things he does not see. Refers to Sheet A-1 Zoning Data, there is a minimum side yard of the left side but no reference to the right side?

Mr. Hall testifies he is correct but it is depicted on the Site plan drawing. The front right corner of the house per the survey has an 11.9ft. Side yard and we would hold the rear of the house at 12ft when it is built, so there would be a slight adjustment to keep it at 12ft.

Mr. Lowenstein moves to his second question. On the Site plan, if you are standing facing the structure, his visual inspection indicated there were Pavers from the right side of the walk to the right side of the home. It is not reflected on the drawing?

Mr. Hall confers with his client...

Mr. Hall testifies his client will be removing both the pavers to the left and to the right.

Mr. Lowenstein notes this will be an amendment or making explicit in the Application, that these pavers to the right will also be removed?

Mr. Newman notes the application will not have to be amended because it is in the testimony.

Mr. Hall for the record testifies, both the Pavers from the left and the right of the house will be eliminated in order to arrive at the Zoning calculations shown on the plan. It has been factored into the calculations as shown.

Mr. Lowenstein questions the existing structure. When you go into the entrance and go down the stairs-the room on the right?

Mr. Hall explains the room at the right rear is a bedroom proposed. It presently functions as a Play area.

Mr. Lowenstein asks if it has a double sliding glass door where you can exit.

Mr. Hall testifies it has a swinging door and a bank of windows adjacent to it where presently you could exit. This whole wall would be built in to create a bedroom.

Discussion continues.....

Mr. Hall reviews the proposal of this area to clarify what exactly is to be done.

Mr. Seibel (Board Member) questions the Board Attorney on the status of the current Ordinance regarding impervious coverage concerning Pools.

Mr. Rosenberg (Board Attorney) notes it was adopted.

Ms. Peck (Assistant Zoning Officer) interjects to state the Ordinance was approved to allow 50% of the water surface and if you want to install pavers, they could exceed

impervious coverage by 10% provided the pavers they followed a specific installation requirement.

Discussion...

Mr. Hall (Architect) testifies they are not proposing this because it is a rather involved paving system...

Ms. Peck explains to the Members of the Board this is her 2<sup>nd</sup> application and both applications were having difficulties with the type of paver requirement. It is very expensive installation requirement.

Mr. Hall states it is not just a little expensive, it quadruples the cost of Paver areas ...it depends upon the soil perking and they are not really sure if they could do this and have it function properly....it is untested and they do not want to propose this to their clients at this point.

Discussion continues....

Mr. Newman asks if there are other questions from Board Members. Seeing none, Mr. Newman opens the application to Residents living within 200ft. of the Applicant for questions or comments.

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

Mr. Safier states he had two questions, but one was answered. You are adding above but the roof is not being raised. His biggest concern is with the Pool. It has been their experience in the past, there is a leak. How will this be prevented from happening? If this impacts on the leakage, it will impact his property and he does not want this to happen. How can he assure this will not happen?

Mr. Hall explains the proposed installation of a Pool is predicated on it being installed by a Professional and being installed properly. His Architectural testimony does not cover how to install a pool...

Mr. Safier still would like to be assured how this will not happen...

Mr. Hall understands the concern, but the question is related to the idea of having a pool at all as opposed to having a pool because the pool inherently violates some Ordinance.

Mr. Hall continues...we are asking for a variance for excess in impervious coverage but a Pool is an allowable use. We are proposing to build something, in theory can be built properly by a Professional..

Mr. Hall explains the Pool would have to go through all necessary inspections so it would be constructed properly and also a warranty from the Manufacture.

Mr. Safier has concerns with the digging and the excavation in order to allow the Pool to be installed...

Discussion continues...

Mr. Hall states he is the Architect; he is not a Builder and cannot testify as one.

Mr. Safier wants to know how he will be protected.

Discussion continues...

Mr. Safier does not want to have to go through the expense of suing someone down the road so he wants some sort of guarantee...

Mr. Sacchinelli (Board Member) asks the applicant, Ms. Zilberman if their property is above Mr. Safier's. Is it level or kind of even, is he below you in height?

Mr. Hall speaks for the applicant and notes the properties are fairly flat.

Discussion continues...

Mr. Sacchinelli notes this is an in-ground pool it is not an above ground pool so if anything were to happen, it would be a slow leakage.

Mr. Newman asks Mr. Safier what kind of damage he is concerned with on his property.

Mr. Safier testifies that the Applicant has some sort of a drainage problem because when it rains hard, he sees water accumulating where their property joins theirs. His concern is there is a drainage problem and with construction, would it create a worse issue.

Mr. Newman tries to clarify if his concern is increased run-off and flooding onto his property.

Mr. Safier notes he does not know what you would call it but the water accumulates between the two properties on the property line...right now he has ivy there which absorbs it but he does not know what will happen in the future...it's one thing when it is rain water but another when it is water with chemicals.

Mr. Newman states Mr. Safier is referencing two separate issues here..

Mr. Newman turns his question to Mr. Hall (Architect) and asks him if he is aware of a drainage issue and is there a need to put in a seepage pit or anything else.

Mr. Hall testifies he is not aware or was aware of a drainage condition. He has not been there to observe it in an extreme storm event. He is not aware if there is extreme ponding along the rear property line.

Discussion continues....

Mr. Newman asks Mr. Rosenberg (Board Attorney) if there could be a stipulation as part of any approval that they need to take a good look at any potential drainage issues that may currently exist....

Mr. Rosenberg states the question then would be; who would be the person to monitor this & look at the plan? Is it something our Board Engineer would have to take a look at, or are we asking the Applicant to come back with a plan that the Board Engineer would be required to review to insure that if the Board granted an Approval, that in fact it would be (inaudible) drainage.

Discussion continues....

Mr. Newman decides this is the only logical way to go to address the concerns that have been raised. He is hearing testimony that currently there are drainage issues on the site that involve both properties. The pool is being proposed 12ft from this area...it may raise some issues and they have been verbalized here by an objector. It has some significance and it would be in everyone's best interest, the applicant's especially to put together a plan and have it reviewed by the Board's Engineer.

Mr. Hall (Architect) states; they would be amenable to doing this...

Mr. Hall notes upon evaluation from the Engineer's office it might be for them to install some storm water detection in the form of a seepage pit or a shallow seepage pit system. If they were to include in the proposal 500 gallon of underground storm water retention, which would go a long way towards against alleviating any ponding issue...

Mr. Newman clarifies and wants it to be looked at appropriately. Let's have the analysis done, draw up the proper plans and have them reviewed and do things right.

Discussion continues....

Mr. Lowenstein (Board Member) questions the Applicant and asks if they are aware of any ponding issues going on.

Ms. Zilberman testifies usually there is no problem, only in the very severe storms, then we saw the entire neighborhood ponding but she does not think there is a problem in her backyard.

Mr. Lowenstein asks if it is fair to say, she has seen this more than once since living in the home.

Ms. Zilberman testifies maybe but in the very severe storms....

Mr. Newman asks if there are no other questions from Board Members at this time, He defers to Mr. Rosenberg (Board Attorney) to ask if he can carry the Application and leave open the Residents within 200ft comments until the next hearing.

Mr. Rosenberg states; that would make sense, Mr. Chairman because they will be submitting something that will be looked at by the Board Engineer.

Mr. Newman announces they will not close comments from Residents living within the 200ft of the Applicant and we will reserve comments from the General Public until the application is heard at the next meeting.

Mr. Newman asks the Applicant & Mr. Hall is there are any objections to carrying the application to the next available meeting.

Discussion...

Mr. Azzolina (Board Engineer) states if the Applicants were able to get the plan 10days in advance of the next meeting to him, there would be adequate time for him to review it & report on it at the next meeting.

Mr. Hall (Applicant's Architect) testifies he will do this.

Mr. Newman announces the application will be carried to the April 28, 2014 Meeting of the Zoning Board of Adjustments, no further notice to be published.

#### **APPLICATION CARRIED TO APRIL 28, 2014**

Mr. Newman calls for a 5minute Recess before moving to the Commercial Application.

Mr. Newman calls the Meeting back to Order.

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

There is a Quoram.

**Commercial Business Carried:**

1. Application#14-001, Rici Realty  
8-20 Cedar Street, Block 5820, Lot 9, Zone R-1-3  
Change in use. Currently a non conforming business use & proposing to change use to non-conforming multi-family use. Requires a D-1 variance as per Section 125-57.D.(d)[1]. Amendment to site and parking requires a minor site plan Variance as per Section 125-65. Existing building to remain and be converted Four residential units. Would reduce the front yard setback from 7.6' to 4.7' where 25ft is required. Would maintain existing side yard setback of 2.7' where 10' is required. Would increase the building coverage from 29.2% to 30.4% where 25% is permitted. Would decrease the impervious coverage from 93% to 80.1% where 35% is permitted as per Section 125-12. Driveway would have a 0' Setback from property line where 1' is required as per Section 125-48.C.(7)

Fees have been paid and there is proof of service.

Mr. Levitt (Attorney on behalf of Rici Realty) steps forward to review with the Board Members the reason they are here tonight.

He explains they are here for a D-variance and other C-variances relating to the property, 8-20 Cedar Street in Fair Lawn.

Mr. Levitt continues...he has three Professionals here this evening. An Architect, a Planner, an Engineer along with the current owner of the property.

Mr. Levitt calls to the Podium, Mr. Ile Trajkob.

Mr. Newman swears in: Mr. Ile Trajkob (Part Owner of Property)  
26 Rutgers Court  
Wayne, N.J.

Mr. Levitt begins his questioning.

Mr. Trajkob testifies he is one of the Principal Owners of the business located at 8-20 Cedar Street in Fair Lawn known as Rici Realty. He explains the current business is General Construction. It involves the storage of Construction materials and materials arrive at the location via trucks.

Mr. Levitt continues his questioning asking Mr. Trajkob what the previous use of the business was before purchasing it.

Mr. Trajkob explains it was once a Roofing company before purchasing it and when they purchased it they intended to use it as an Office/Warehouse. The materials would be

Plastic, Glue, Spray tape, coveralls & protective gear, like harnesses for the workers including Construction materials.  
Testimony continues...

Mr. Trajkob also testifies to running the Main Office out of this location but there came a time where they decided to forgo plans to make this into a finished warehouse because of the (inaudible) we figured it would be more convenient for everyone to convert it into a Residential use because of all the noise and everything else...

Mr. Trajkob continues to testify upon questioning that they submitted an application to the Building/Zoning Department in order to renovate the building and he did receive approvals for this.

Mr. Levitt asks Mr. Trajkob what was the use they were approved for.

Mr. Trajkob testifies they were approved for use of a Warehouse/Office as well as storing Trucks and Forklifts, & Parking in the back which is zoned for 14 trucks at this point.

Mr. Trajkob states at the current time they have 10 trucks and have plans for expansion, explaining he is currently searching for another property in another Municipality in order to store the Construction materials.

Mr. Levitt has no other questions.

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

Mr. Neveh (Alternate Board Member) asks Mr. Trajkob why he is seeking another property in another municipality. Why not Fair Lawn?

Mr. Trajkob testifies when they purchased the property, it was owned by a Construction Company, so they said we could use it basically for the same use. He applied for a CO from the Borough of Fair Lawn. We realized we were surrounded by Residential homes and (inaudible) were going to occur so after we gutted it all out, they realized it would be better to convert the building into a Residential rather than Commercial.

Discussion continues.....

Mr. Sina (Board Member) questions the Office hours.

Mr. Trajkob testifies the Office hours are 8am-5pm but his crew does a lot of work for Government & Schools so a lot of the work occurs after 3pm. Work starts around 5-6pm and the crew returns with a truck around 3-4am in the morning. There is usually a crew of 30men with 40 cars or so parked in the street or driveway which makes a lot of noise for the neighbors, so this is why we feel it would be beneficial to the neighbors to convert the location to a Residential.

Mr. Sacchinelli (Board Member) asks how long the business has been running out of this location.

Mr. Trajkob testifies the business is not running right now, we are still in the renovating stage. The location is being used as Storage currently. We have been currently using it for storage for approximately 2-3 years.

Mr. Levitt (Attorney for the client) explains the application originally started over a year and a half ago and he believes his testimony was; they did receive the approval from the Fair Lawn Borough for the renovation of the building. They decided to stop the renovation in order to begin this application.

Mr. Newman would like clarification of the use at the site currently. Is it storage only?

Mr. Trajkob states yes.

Mr. Newman questions the Applicant and asks; so all testimony stated was hypothetical? None of these things go on at the site-with the trucks coming and going?

Discussion continues on the present use at the site...

Mr. Newman tells Mr. Trajkob that they don't need to worry about what will or might go on at the site that has no bearing on this application...

Ms. Peck (Assistant Zoning Officer) interjects to explain to the Chairman, Mr. Newman before this business moved in it was known as Morlite Sales, which was the Roofing and Siding business with outdoor storage. It looks like that business may have been there since 1980 or maybe even earlier.

Discussion continues.....

Mr. Newman would like Ms. Peck to maybe give him insight as far as the impact of Morlite Sales when it was there as far as trucks, etc.

Ms. Peck states she has no information regarding this. There is no record and she is not familiar with this.

Discussion continues.....

Ms. Peck explains the use & clarifies they could only duplicate the prior use, which would be the Construction business which is what they were given permission to do.

Ms. Peck asks the applicant if they went to the Planning Board for the proposed expansion, for a conceptional?

Mr. Levitt (Applicant's Attorney) states; he does not think it was a Planning Board application. He thinks it was simply the renovation of the existing building.

Discussion continues....

Ms. Peck states she would have to pull the Building permits at this point and look at what they are...

Mr. Newman asks if there is a 1980 approval for Morlite at hand.

Ms. Peck states yes but this is when they wanted to expand the building in 1980 and it was more sales at that point.

Discussion....

Mr. Newman asks what kind of onsite parking was approved then.

Ms. Peck refers to the Approval, reads from it & states; it is very vague what is here.....

Mr. Newman notes he is hearing a lot of testimony that doesn't have a lot of backbone.

Ms. Peck then reads the 1980 approval where the variance was granted for a construction of a 32ftx7.5 rear open shed to the existing building which was a non conforming use in the Residential area....this use may not be extended.

Discussion continues....

Mr. Newman has issues with the testimony referring to the parking allowance to make it seem like this use is even permitted. They don't know this.

Discussion continues...

Mr. Levitt does have the approval for the renovation of May, 2011 and believes all the testimony that was being brought forth was that there is an approval to renovate the existing building. The approval that goes back to 1980 is for Construction. The testimony was they are in the Construction business. Regardless, they are only allowed to use what is a pre-existing non conforming use and not expand upon this. They would need to come back before the Board in order to obtain any further investigation of the use.

Discussion....

Mr. Newman reiterates this was not the testimony they were hearing. It almost seemed to be testimony this was the kind of use that was currently going on. Let's be clear that the

use which was more impactful than what Morlite sales was doing would end up before this Board before it was approved.

Mr. Levitt respectfully disagrees that with a pre existing non conforming use they would have approval to renovate the building and use what the Morlite use...

Mr. Newman interjects and notes testimony stating parking of heavy equipment that was not previously parked there would fall within this...

Discussion continues....

Mr. Newman just does not want a picture painted here that is not factual.

Mr. Rosenberg (Board Attorney) notes to Mr. Levitt that the inquiry is very important about exactly what is grandfathered on the property. Asks Mr. Levitt if their Planner has proper testimony about what is grandfathered on this property, or should Ms. Peck answer this as far as what the Building and Zoning Department has determined is the grandfathered uses on this property?

Mr. Levitt defers to Ms. Peck regarding the grandfathered use...

Discussion continues....

**Mr. Levitt marks into evidence: Exhibits A1, A2 & A3**

**A1-** An Architectural drawing done by Dannon Group of Fair Lawn, N.J. Revised last on 5/10/2011 Renovation of the Rici Realty Interior Renovation & as needed roof replacement. Approval dated 5/27/2011

**A2 -** Zoning letter from Ms. Ann Peck (Assistant Zoning Official) dated October 11, 2010 regarding the proposed new business of Rici Realty, General Contracting-permitting the use.

**A3-**Borough of Fair Lawn Zoning Application...description of daily office work, unloading and loading trucks, number of parking spaces-15

Ms. Peck reviews this & notes it is only the back page of the Zoning Application...there should be a front page. They would have it on file...explains where the type of use is described.

Mr. Newman asks Ms. Peck to describe the type of use they asked for.

Ms. Peck notes, Office use, loading and unloading trucks. Type of use: Construction.

Discussion continues....

Mr. Newman clarifies the only use that was approved by the Building Department and the Zoning Office was Office Space use, the renovation of this space, loading and unloading of trucks. No where does it state the storage of construction material nor does it say parking of 40 vehicles....

Discussion...

Mr. Levitt states he believes testimony was that there would be 40 cars in and around the area as opposed to onsite.

Mr. Newman felt testimony began with what sounded like the Residential use would be so much better than what was to happen otherwise, when in reality this is not what was presented to the Building Department and the Zoning Officer.

Mr. Levitt notes the miscommunication.

Mr. Newman would like the application to be carried out a lot more transparently & factually.

Mr. Levitt so notes.

Mr. Newman asks if there are any questions for this witness only from residents living within 200ft. of this application.

Mr. Newman reiterates to the Public, telling them whenever there are a lot of objectors with a lot on their minds, they have to tail the questions at this point in time to the witness only and to what has been spoken of already. There will be plenty of opportunity to ask more and to speak more as the hearing proceeds....

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

Her question is for the Applicant. He testified he bought the property 3 years ago. She does not believe it has been 3 years but would like to know why the building has not been maintained. The windows have been boarded up for the last 2 years, the lawn is not cut, the snow has not been shoveled in a timely fashion and there is trash on the front lawn. If he is the owner, why is the property not maintained?

Mr. Trajkob steps forward and testifies they do maintain the property. The reason why the windows are boarded up is because of the ongoing construction. Some kids have broken the windows and there is nothing more they could do but board them up or put new glass in them for them to break again. They are under construction, there is a Construction permit posted on the door.

Mr. Trajkob objects to the issue of snow, testifying the snow is always shoveled. If not the same day, it is shoveled the next day in the am.

Testimony continues....

Mr. Newman asks Mr. Trajkob if there is regular maintenance upkeep at the site referring to the trash complaint.

Mr. Trajkob states there is no trash. In the past 2 years, they have done no construction because of this variance they are trying to obtain.

Mr. Newman asks how often someone stops at the site to monitor the condition of the site, if there is vandalism or garbage that needs to be cleaned up.

Mr. Trajkob testifies weekly.

Mr. Newman asks if there are any other questions for this witness?

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

Mr. LaRosa states he lives right next door to them. He sees everything that goes on. If you go into the backyard right now, it is a mess. Everything's a mess. Never sees any truck in the backyard, nothing. You don't see anybody for weeks, snow laid there for 2-3 days, they said the snow is cleaned up the next day? This is not true. The grass is 3ft. high....

Mr. Newman notes their concern and states they will settle this quickly. Defers to Ms. Peck (Assistant Zoning Officer) and asks if she can put in a request for the Property Maintenance Officer stop at the site and take care of the issues.

Mr. Newman reiterates they will have the Property Maintenance Officer stay on top of this site to be sure no of these issues continue.

Ms. Peck lets the Residents know to please always call the Building Department in the future if the conditions ever fall to the wayside.

Mr. Newman asks if there are other questions from Residents for this applicant.

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

Ms. Kuzmiak question is; since the permit was given for the inside of the building noting has been done, correct?

Mr. Trajkob states they have gutted out the inside...

Ms. Kuzmiak asks the Applicant if there is something structurally wrong with the building. Is this the reason why construction stopped?

Mr. Trajkob states absolutely not. His Architect and Engineers state the structure is fine.

Mr. Newman notes to the Resident, in as much as the structure is not part of the application, he does not know if the Board can address this.

Ms. Kuzmiak is questioning why he changed his mind from using it as a Business to an Apartment use?

Mr. Newman clarifies the Applicant does have the right to do this.

Mr. Newman asks if there are any questions for this Witness only. Seeing none,

Mr. Newman asks if there are any questions from the General Public for this Witness only. Seeing none,

Mr. Newman closes this portion.

Mr. Sacchinelli (Board Member) questions Truck delivery. Are there any Truck drop-offs currently at the site?

Mr. Trajkob testifies not at the moment. Once in a while we drop something off & pick equipment up. Grinders, Generators...not on a daily basis but as needed. The site is used presently as Storage.

Discussion continues....

Mr. Sacchinelli asks Mr. Trajkob if this application is not approved how will the site be used.

Mr. Trajkob testifies it will be used as Office/Storage as intended with Trucks.

Ms. Peck asks Mr. Trajkob is they currently have a CO to occupy for the use currently or do you just have a Construction permit for the renovation.

Mr. Trajkob testifies he does have a CO. He did this before getting the renovation permits.

Discussion continues.

Ms. Peck states they really are not supposed to be using it because they are in the middle of construction. Their testimony is that you have been shipping and moving stuff out of the building...

Mr. Trajkob states there is no one in the building. There is no power or anything being used.

Discussion continues.....

Mr. Trajkob testifies they are not currently operating out of the building because it is under renovation.

Mr. Sacchinelli's next question for Mr. Trajkob is; his testimony was his business would entail dropping off & picking up until 3am because they work with Schools. Is this allowed in the area?

Ms. Peck state she does not believe the prior use was a Warehouse. The prior use was a Construction company with Equipment and an Office.

Discussion continues....

Mr. Levitt (Applicant's Attorney) notes if the Board's concern is to the nature of the use of the building- reads; Office use/loading & unloading of trucks....with the very nature of the loading and unloading of trucks, there is warehousing material. Unless they are saying they are bringing 18wheelers in & unloading 18wheelers on site...

Mr. Sacchinelli interjects and states this is his concern. What size truck are we talking?

Discussion continues.....

Mr. Levitt reiterates, it is a Commercial, pre-existing, non conforming use in a Residential Zone...he does understand the Board is trying to acetate what was the Actual pre-existing use that was allowed so we know what the baseline is..

Mr. Sacchinelli is trying to clarify if this application as proposed does not get approved, he would like to know what it is they will be heading back to....

**Mr. Newman calls for a 5 minute recess.**

Ms. Peck steps out to obtain the original application for approval from the Applicant.

**Mr. Newman calls the meeting back to order.**

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

Mr. Newman announces there is a complete Exhibit A3-which would be Application #10-0060 dated 10/15/2010. Attached is a letter from Rici Corporation dated the same.

Mr. Newman reads the letter detailing the Rici Corporation as an existing General Contractor. Description of work-General Contractor Company that deals with Environment projects as Asbestos & Lead. Hours of operation are 24hours a day, 7 days a week. Number of employees-15 workers with 5 Trucks, 2 Vans & 2 personal vehicles under the Company name, not including Employee parking.

Mr. Newman notes it is a far cry from what testimony was given and this describes what was applied for and this would be the only thing permitted and not 40 vehicles parking with forklifts and other things we heard testimony on...

Mr. Levitt (Applicant's Attorney) respectfully disagrees with Mr. Newman's abstention on what is allowed on the property, but this is just for the record.

Mr. Newman so notes.

Ms. Peck (Assistant Zoning Officer) states as far as the letter stating 24hrs a day, she does not have the authority to grant that to the Business. It was their description of the business. Her letter did not give them a 24hrs business. It outlines there would be a variance for that.

Discussion on what hours would be allowed.....

Mr. Newman remembers other cases where they would have to look at what was grandfathered in and how the prior business was run....

Discussion continues....

Mr. Rosenberg (Board Attorney) explains when an applicant comes before the Board seeking a D-variance to expand a prior non conforming use testimony would have to heard in order to determine what the nature of the non conformity is and decide whether or not the applicant is seeking to expand on this.

Mr. Rosenberg continues...an Applicant can go before the Zoning Board for the purpose of establishing what the nature of the non conforming use is, if in fact there is a debate between the applicant and the Borough about the nature of the extent of the use...

Mr. Rosenberg referring to this application states; this of course is not the nature of their application, but the applicant has proper testimony with respect to a justification or a

basis upon which they are seeking relief for the D-variance which is now put into play, properly so, what exactly can go on at the property because the Applicant has testified about this...the Board is well within it's authority & jurisdiction to investigate the issue as to what exactly is permitted on the site as a Grandfathered use.

Mr. Levitt has respectfully disagreed with the Chairman's reading and interpretation of the Zoning Application that would grant the applicant the right to recommence Grandfathered operations from this property... This is his right to do but this Board does have the absolute right and authority as it deems necessary and appropriate to determine what exactly can occur on the property in weighing the issue of the D-variance the applicant is asking for....this is his reading of the application.

Discussion continues....

Mr. Newman (Chairman) agrees and feels this application would be so much better than what they would do if this application does not get approved at this site when the fact is this really has not been determined. What they would be doing, what they could be doing and what would be grandfathered in at the site.

Discussion continues...

Mr. Rosenberg explains it is the Applicant's burden to be able to demonstrate the need for the D-variance, particularly in this case.

Discussion continues on getting more information regarding the use and what would be allowed and grandfathered in at the site...

Mr. Rosenberg recommends allowing the applicant to proceed with their application because they do have the burden.

Mr. Newman continues the proceedings noting to Mr. Levitt he has heard some of the concerns of the Board are at this point in time.

Mr. Levitt asks to review the complete Exhibit A3/Letter of Intent...

Ms. Peck suggests entering the complete Zoning Application as Exhibit A4.

So noted.

Mr. Levitt calls his second witness: Seth Leeb

Mr. Newman swears in: Mr. Seth A. Leeb (Architect)  
17-19 Rt 10E  
Parsippany, N.J.

Mr. Newman certifies Mr. Leeb as an Expert witness in the field of Architecture with no objections from the Board.

Mr. Leeb begins his testimony explaining he has prepared plans for this proposed application...

Plans are entered into Evidence.

**Exhibit A5- Proposed Plans prepared by Mr. Leeb**

**Drawing A1-** The existing condition of the building. It shows existing floor plan of the gutted building with a garage door at the rear and a garage door at the front of the building...door in front & rear-several windows-masonry structure...explains in detail..

Mr. Levitt interjects to ask Mr. Leeb if he had the opportunity to walk the exterior & interior of the building and noting the resident's concern of an unsafe structure asks him in his professional opinion did he see any unsafe conditions relating to the structure.

Mr. Leeb testifies he did walk both the interior & exterior and did not note any unsafe conditions. He does most structures for his projects and did observe a mezzanine. There are structural posts that hold the mezzanine. The stairs did seem unstable, he does grant this but the masonry walls and upper structure is in pretty good condition considering the age of the building. He does not know the age of the building.

Mr. Leeb enters in evidence-Exhibit A6- Site Plans-

Mr. Leeb notes it was not prepared by his office. It was prepared by Mark Walker with Dysta Walker Design Group Engineers-dated 3/24/14 with no revisions. He would like to show it as a frame of reference because it shows the site.

Mr. Leeb continues with his testimony referencing A6 to orient everyone...points to Cedar Street/the existing building, the driveway/etc....

Mr. Leeb is questioned on the existing footprint of the building and is asked if the existing building increases in size at all.

Mr. Leeb testifies No it does not.

Mr. Leeb refers to the 1<sup>st</sup> & 2<sup>nd</sup> Floor Plan.

**Exhibit A7- 1<sup>st</sup> & 2<sup>nd</sup> Floor Plan.**

Mr. Leeb testifies what is proposed is to renovate the existing building. Bring the masonry down to what would be the 2<sup>nd</sup> floor and add a second story on this building as well as roof space. They will be adding 4 Residential units. Describes the units...

The two (2) on the first floor would be handicapped accessible and the two (2) on the 2<sup>nd</sup> floor would be accessible by stairs.

Testimony is continued on the square footage of the apartments...describing all four units which would have 2 Bedrooms, a Living Room, a Den, a Full Bath, a Kitchenette area, a Mechanical area/Dining Room and some storage.

Mr. Leeb explains the Mechanical area which would hold HVAC Equipment-there will obviously be an exterior Mechanical closet from the outside of the building that takes a little square footage out of this unit-

Testimony continues.....Bedroom sizes are approximately 14x13....Living rooms depending on the upstairs and downstairs units will vary a little but they are around 15x16ft.

Testimony continues.....

Mr. Leeb notes the overall footprint of the building is 24x12ft. per floor...He clarifies his dimensions-they say 60x40ft. They really are 60ft (+) or (-) by 40ft (+) or (-)...Architects and Engineers measure differently...explains.

Testimony continues...

Mr. Leeb explains it will be masonry on the first floor and framing on the 2<sup>nd</sup> and for the roof. It has not been determined yet if they will do trusses for the roof or not but there will be no habitable space in the Attic structure area.

They are proposing to change the entire character of the building from a Commercial use so that it will fit into the Residential nature of the neighborhood.

Mr. Leeb marks this as Exhibit A8-notes this drawing is different from the one submitted in the set. Explains, the reason being after he spoke to the Municipal Engineer, it was brought to their attention, 2 elements-explains.....right side and left side elevation-it was brought to his attention, an extra line was drawn and he corrected it. It showed a Hip roof when in fact it is a Gable roof coming across and the Hip is beyond. This was an error on their part. It was revised for the meeting...

Another change not noted in the set submitted was; it was brought to their attention based on the report, their height calculation was done incorrectly. The Engineer brought it to their attention with his report received so they revised the height calculation which is depicted on this drawing....

These were the only two changes and so noted with revision dates-3/24/14 and the other revision which was made on 3/21/14-

Testimony continues....

Height of the roof is clarified. Height was brought down from the original calculation.

Mr. Leeb continues with his proposed plan describing the site and explaining how they will create a more residential feel to the site.

There will be four (4) separate entrances, no common hallway.

Mr. Leeb continues...the neighborhood is residential in character which have Hip roofs, Gable roofs, they have Bi-Levels, Split Levels, etc...some have attached garages, some have detached garages, driveways in front, driveways on the side, a variety of home types in this neighborhood.

Mr. Leeb is questioned on his professional opinion as an Architect, would this proposal be in character with the present neighborhood.

Mr. Leeb testifies in his professional opinion, he feels this proposal is absolutely in character of the current neighborhood. It would have materials they would be compatible with the neighborhood referring to the siding, the roofing shingles, and the windows with the trim around it. The Architectural features are more to break up the façade....

Mr. Leeb continues with the positive criteria of the site. They meet all the Fire codes with the State of New Jersey and if there are any additional ones by Town Ordinance..

Mr. Leeb speaks to the rear of the property. At the South west southern corner they are proposing a Garbage enclosure. Explains in detail....

They have done four (4) areas for the trash, one trash bin for each tenant which would be enclosed, inaccessible to animals and with air flow.

Testimony continues...

Mr. Leeb feels this proposal would fit in so much more than a Commercial Business.

**Mr. Leeb enters Exhibit A10-Photo Board.**

**Exhibit A10-** Photos taken by Mr. Leeb as he walked the property. Describes the site with the photos and notes the house immediately to the right hand side of the property. This house is much taller than the building site. The proposed structure will be no taller.

Mr. Leeb describes the photos and location of pictures.....

Mr. Leeb passes the Photo Board to the Board Members.

Mr. Newman (Chairman) takes a few moments while the Photo board is being reviewed by Board members to ask Mr. Leeb a few questions.

Mr. Newman so notes he is not the Planner and they do have a Planner to testify but since he has testified quite a bit regarding the character of the neighborhood, construction materials, etc...is there any other four (4) family dwellings in the neighborhood?

Mr. Leeb testifies in the immediate neighborhood he did not see any. Down Cedar Street and the immediate adjacent area he did not see any three (3) or (4) family dwellings. He does clarify though he does not know what goes on inside the homes.

Mr. Newman states to his knowledge there are no structures that look like this structure in the immediate neighborhood or the surrounding neighborhood.

Mr. Newman asks Mr. Leeb, architecturally from a planning standpoint, would a Single family or a two family home rebuilt on this site be more in character than what is proposed.

Mr. Levitt (Applicant's attorney) interjects to state he feels this is testimony that should be answered by the Planner.

Mr. Newman so notes but he is asking Mr Leeb as an Architect. His testimony states he feels this would fit in the character of the neighborhood.

Mr. Newman asks Mr. Leeb if he were asked by the client to reconstruct something on this site that did not use the existing footprint, could you construct something more in character of the neighborhood than what is proposed.

Mr. Leeb testifies he could design a one family, a two family. Would it be more in character with the current neighborhood, it could be....

Mr. Leeb testifies if they were to knock the building down there are a lot of possibilities for this property. They are trying to use the existing building. His testimony is if they were to knock the building down they could do a lot of different designs for this property...one family, two family, three family, more than 4 family..

Discussion continues....

Mr. Levitt (Applicant's Attorney) objects to this questioning. He is speaking to a hypothetical situation. If they would knock the building down, they would have to conform to the one family zone. Obviously, they will have Planning testimony as to the effect ...

Discussion continues....

Mr. Levitt states this is the design that is being proposed before the Board.

Mr. Newman so notes the objection.

Mr. Leeb testifies this is in character of the neighborhood. A one family or two family could be just as tall and could be just as bulky. If it were torn down, they would obviously have to meet the setbacks or come before the Board with a different application with different setbacks. He believes a one family, a two family or 4 family could fit within the character of the neighborhood. In his opinion, the number of families is not the determining factor of whether it fits in the neighborhood. In his opinion, it could be also a four family that could not fit in the neighborhood. It could be a square modern house that does not fit in the neighborhood. They are here tonight to present a four family before the Board.

Mr. Racenstein (Board Member) questions Mr. Leeb on the foundation of the site and being they will be building on the section of the warehouse and anticipating there will be four families, does the foundation meet today's standard of the Building code.

Mr. Leeb testifies the Foundation will structurally handle this project. He can have his Structural Engineer test the site but based on his 15+ almost 20years experience this structure could definitely handle a second story and attic proposed.

Mr. Sacchinelli (Board Member) questions Mr. Leeb on the 4 entrances and why they are facing the back. It will look weird from the front with just a bunch of windows..

Mr. Leeb states there was a lot of discussion between him and his client as to how to orient the building in terms of whether the doors should be in the front or back. Obviously most single family residences have doors in the front. This neighborhood included. What they decided to do and the reasoning behind doing the four doors in the back as opposed to the front is to call less attention to the fact it is a 4 family residence.

Discussion continues...

Mr. Leeb states if they had done one door, then it would be a common area and common areas become maintenance issues when you have rental units. Also in regards to parking, we have allowed them to park on site in the rear of the building so they could access their cars just as if you had a detached garage...

Mr. Sacchinelli has another question for Mr. Leeb. What is the reasoning for the Den? These are apartments. Most apartments have bedrooms, not dens. Would this down the road be consider a 2 ½ Bedroom?

Mr. Leeb testifies it cannot. It is not an egress window. It does not have a closet. It was not intended to be a bedroom. The idea is; many times a homeowner has a little office space or a TV room because there is no separate family room or living room, someone

could watch TV, do homework in this area. There is not enough room to make 3 bedrooms to make it an L-shaped living room. They tried many different configurations to come up with the floor plan and creating the Alcove hurt the furniture layout for the Living room so this is why we have the extra room.

Mr. Sacchinelli has concerns over this... anyone can turn this into a bedroom and who would be policing this.

Mr. Leeb states he has done many Dens. He recently had completed a series of Multi-family units-6 over 6 Townhouses. He has always added a Den.

Discussion continues....

Mr. Sacchinelli just doesn't understand why he just didn't make the bedrooms bigger and eliminate the Dens... he hopes down the road it doesn't turn into an issue.

Mr. Leeb states it would then have to become a Zoning Enforcement,

Ms. Peck (Assistant Zoning Officer) interjects to state because it is a (4) four family, It would be regulated by the State Housing and they would get yearly inspections.

Discussion continues....

Mr. Leeb so notes if it pleases the Board and this is approved with some condition and they did not want to see a Den, and would like it more open, he can speak with the applicant and see if they are amenable.

Discussion continues.....

Mr. Leeb has nothing further to add and completes his testimony.

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

Mr. Seibel (Board Member) revisits Mr. Leeb's testimony regarding his past projects referencing the 6 over 6 he testified to, asking if that was a 3 bedroom with a Living room and Dining room & kitchen.

Mr. Leeb clarifies and states 6 over 6 would consists of 6 units over 6 units/ 3 over 3 and in these combinations, they did 3 bedroom over 3 bedroom, two bedroom over two and so forth....different combinations.

Mr. Seibel asks if he had ever done anything which would incorporate the Den into Bedroom#1 as maybe a Master Bathroom with a walk in closet type.

Mr. Leeb says in an Apartment he does not think he would do this...explains...

Testimony continues....

Mr. Leeb states in his experience, tenants like a little extra area for something, whether it be a big storage room for bicycles because they do not have a garage. Maybe it would be an office to put a desk with a computer...

Mr. Sacchinelli notes his concern that if the owner does not live there, you could have somebody sublease this..

Mr. Leeb reiterates if it the desire of the Board, he would be more than happy to rework this design. Their intent was not for it to be a bedroom.

Mr. Newman asks if there are any other questions for this witness.

Mr. Seibel asks in regards to conformity in the area. This will be 2412sf per floor-comes to 4824sf. Are there any other 4800sf houses in the area that he is aware of?

Mr. Leeb cannot answer this because he did not survey the square footage of the houses. His observation from driving through the neighborhood and walking down the street that no, there were not any 4800sf homes. There were houses that did have 3 floors and may have livable basements...

Discussion continues...

Lot sizes in the neighborhood is discussed & reviewed by Mr. Leeb. His opinion is there are various sizes throughout the neighborhood.

Mr. Newman opens for any other questions from Board Members. Seeing none,

Mr. Newman swears in the Board Professionals to testify.

Mr. Paul Azzolina- Azzolina & Feury Engineering-(Board Engineer)  
30 Madison Ave  
Paramus, N.J.

Mr. Mark Kataryniak-French & Perrillo Associates (Board Traffic Engineer)  
1800 Rt. 34  
Wall, N.J.

Mr. Paul Kittner- CME Associates (Board Planner)  
Howell, N.J.

Mr. Kataryniak (Traffic Engineer) asks Mr. Leeb if he indicated in his earlier testimony the two proposed first floor units would be ADA (handicapped accessible).

Mr. Leeb testifies yes. They will be handicapped accessible. This is required all units be ADA required. This not only includes the entrances, this includes the doorways, the kitchen and bathrooms. Everything about the units will be accessible.

Mr. Kataryniak asks would this also apply to the Parking requirements, the ADA requirements. If there are designated ADA units and more than one parking space per unit there would need to be separate ADA parking for each one on the units.

Discussion on the ADA parking requirements...

Mr. Leeb states the units were ADA accessible, he does not know if they will be designated as ADA.

Discussion on Mr. Leeb's previous testimony relating to the ADA units...

Mr. Leeb testifies this is not what he said and if he said they were ADA designated, it is not what he meant. He apologizes for the misunderstanding. What they are is ADA compatible/accessible. They meet the ADA requirements. He did not say they were ADA designated.

Mr. Kataryniak so notes and tells the Board if they are not designated as ADA units, you would apply the ADA standard as a whole where one space would be required.

Mr. Azzolina (Board Engineer) confirms what the Applicant's Engineer had advised and he and Mr. Leeb had spoken earlier regarding the depiction of the roof structure... They did not specifically discuss the height issue that was in the report but based upon the testimony, noting he has not seen the revised drawing, but it appears that the height is depicted in the correct manner.

Mr. Azzolina comments there are certain Zoning variance conditions that would be slightly changed based on the roof configurations that the applicant spoke of briefly. Perhaps Mr. Leeb can run through this..

Mr. Azzolina speaks to the Borough Code regarding Roof Structures.

Mr. Leeb explains, the upper roofs in the front and the rear have a 2ft. overhang and what they have proposed in the front and rear roofs which are indicated on A3 in the package but A8 Exhibit. Points to specified section of roof and states it has a 3ft. overhang and the reason they deviated from the normal 2ft. is so it would provide adequate cover when you open a 3ft. door...

Mr. Leeb's testimony continues....They also did a 3ft.cover in the front, they thought this would be the appropriate size and dimension so as to break up the façade of this architecturally but after further review and speaking with the Engineer & the Owner, they may reduce it to 2ft. so that it is not as big and obtrusive and be smaller in scale.

Testimony continues...both the Engineering Office & his office reviewed the report and have redone the calculations. The impervious was redone and the building coverage was redone as per the report provided to him.

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

Mr. Paul Kittner (Board Planner) refers to Section 125-47(1) of the Ordinance-General Design Standards for Commercial Mixed Use & Multi-Family Residential Development, sub section B-speaks to Green Building Practices.

Mr. Kittner asks Mr. Leeb if he can speak to this.

Mr. Leeb testifies he did review the Green Building Practices Ordinance regarding a list of at least 12 items. His practice is centered on doing Green building practices on all his projects, whether it is Commercial, Residential, Religious, etc.

This project is no different. This project will have all double hung windows that will be operable. They have put in larger windows, to take advantage of more daylight. They could not change the orientation of the building, but they did maximize the light in different areas....

Mr. Leeb continues speaks to a Bike rack to give owners who didn't have cars or want to bike to and from, they could. They will be using high efficiency HVAC systems as well as Mechanical, the latest in ventilation systems, etc....

They use low VOC's, recycled content materials as well as green materials...they are reducing the Impervious coverage on the property so they will be adding more green space back to the property, this is important to absorb water and also they have put vegetation in as well...

Testimony continues....

Mr. Kittner asks if the use of Solar Panels were ever considered.

Mr. Kittner states they talked about different Energy sources for this project but did not specifically talk about Solar Panels. At a later point, we may discuss this. There are a lot of different options as a way to do Energy efficient building practices. Because of the North/south orientation of the building and the rear roof having element to it, it could be possible whether it makes sense from an Economic standpoint, they have not done the Energy analysis yet.

Testimony continues....

Mr. Kittner speaks to the Ordinance and notes there are quite a few Architectural standards outlined in 125-47, talking about Ornamental roofs, facades, etc...are there any sections in the Ordinance that your design does not comply with?

Mr. Leeb testifies he does not have the Ordinance memorized...he would be happy to look at it.

Mr. Kittner steps forward to review with Mr. Leeb the Ordinance regarding Architectural standards.

Mr. Leeb states when he designed it he thoroughly read through the Ordinance in different applicable sections and took this into account when designing the structure but off the top of his head without reading it thoroughly point by point...he cannot say because it would take a little time to read it.

Mr. Kittner states he would be happy to defer his comments until later so that the Board could carry on with the application.

Discussion....

Mr. Pohlman (Board Member) questions Mr. Leeb on keeping the character of the neighborhood with this design noting the Board has expressed some of their concerns with the testimony. His question is; are there any Architectural treatments that you could recommend to keep this more in keeping with the Residential house that you did not show on the plans? Referencing the roof line, the façade treatments, something that would make it to look like a Residential home?

Mr. Leeb testifies no. If you have taller structures, there could be dormers on the structures. We do not have living space up there so there are possibilities to add further embellishment to the structure.

Testimony continues.

Mr. Leeb reiterates what he testified to earlier. There is great variety in this neighborhood of what the single family homes look like....bi-levels, to square homes, to ranches, etc.... all sorts of Architectural features inherent in this neighborhood.

Mr. Leeb notes in keeping with the existing building, he faced some challenges in keeping within the Fire Code, explains....

Mr. Leeb does suggest maybe a change of the siding material to create more interest, there is some opportunity there...

Mr. Pohlman asks Mr. Leeb in his professional opinion, does he feel the lot and the size of the building he is proposing is properly sized for this lot.

Mr. Leeb states in his opinion this is nice size 4 family structure. He has seen more overdeveloped properties in the neighborhood where the house is on a smaller lot but occupies more width. The point being just because it is a large square footage does not mean it is disproportionate on the site of the property.

Discussion continues...

Impervious coverage is discussed...

Mr. Leeb testifies after discussion that it is possible to do a 4 family that is a smaller footprint.

Discussion continues pertaining to the increase in Building coverage...

Mr. Leeb clarifies the existing Building coverage is only increasing because of the 3ft overhang. He could reduce the 3ft overhang to a 2ft overhang and the Building coverage will not increase. Based on further review of this, his testimony was it would be more appropriate because we do not want to increase the Building coverage. It is already existing non conforming, over the number, over than what is allowed but other than having that 3ft overhang, it is not the square footage of the building.

Mr. Sacchinelli (Board Member) asks Mr. Leeb in doing this will it look like a big square box because the overhang will give it character...

Mr. Newman stops the proceedings to clarify the question being asked. Was the question; could you accomplish what you are looking for, a 4 family dwelling on a smaller footprint with the same function? It has nothing to do with the overhangs...

Discussion....

Mr. Leeb then states; to answer the question correctly then the Applicant did not ask him to do that scenario. If he is instructed, he could take a look at this.

Mr. Newman reiterates the question was answered earlier by Mr. Leeb that he could make a smaller footprint.

Mr. Leeb follows Mr. Newman's words and reiterates to the Board, this was his testimony earlier that he could make a smaller footprint and he believes he could make a smaller 4 family, whether it complies with the Building coverage, he is not sure...

Mr. Newman opens the Witness to Residents living within 200ft of the applicant for questions only. They should be questions that are Architectural in nature.

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

Mr. Lydon would like to know the distance from the front of the street to the back of the house.

Mr. Leeb (Architect) ponders this question...

Mr. Lydon states the reason he is asking is the Fire Protection for the building. A Fire truck would have difficulty if anything was to happen picking an attack line, going to the rear of the house and then back into the house through the entrance.

Mr. Newman (Chairman) states he is not sure he understands the question.

Mr. Leeb answers; they would break the window in the front and go in the front.

Mr. Lydon states he is a Fireman and that is not necessarily true. If something were to happen, God forbid-they would pull an attack line off-go down the driveway, wrap around the house to the front.

Mr. Lydon asks if the site will have a Sprinkler system. Will there be Fire Department connectors?

Mr. Newman asks if there will be Sprinklers..

Mr. Lydon continues with the question, if there are going to be sprinklers, will it be each individual apartment or will there be one Main Sprinkler for the entire building where the Fire Department connection would hit the whole building.

Mr. Leeb testifies he is not positive off the top of his head, but he is pretty confident that a (4) four family has to be Sprinkled. He is almost positive it does.

Mr. Newman asks if this is necessary to see on the plans.

Mr. Leeb states no but if it is the desire of the Board....

Mr. Leeb continues with his testimony stating they did provide an exterior closet specifically, a mechanical closet, maybe it was a Sprinkler closet? Mr. Leeb apologizes because it has been a while since he designed this, he cannot remember..

Mr. Newman (Chairman) asks Ms. Peck (Assistant Zoning Officer) if the Fire Department commented at all on this application.

Ms. Peck states she did send the application out to them, but she doesn't remember them responding...reviews the reports in her file.

Mr. Levitt (Applicant's Attorney) notes this is something they could provide at the next meeting.

Mr. Leeb testifies he will have the answer to this question with calculations on hose and different information to satisfy this question.

Mr. Newman accepts this and continues with the meeting...

Mr. Newman asks if there are any other questions from Residents within 200ft. for this witness only.

Ms. Jaclyn Ebner steps forward. (Already sworn) states there were some inconsistent testimony. She lives across the street and feels it does not fit the character of the neighborhood. Refers to the Architect's testimony that the house next store was approximately 50ft wide, which she would concur with but it does not have a 10ft. driveway on one side and 3-5ft on the other side. This lot is a full size lot and the house sits in the center of the lot and is quite stately. They are proposing a house from side to side. There are no setbacks, no sides, nothing.

Mr. Newman speaks to Ms. Ebner and notes if she can form her comments into questions if possible. There will be time for comments at the end, but as far as the structure of the meeting goes, she would have to stick with questions for now.

Ms. Ebner understands and her question is. The testimony stated was; parking would consist of a free-standing shed for the Trashcans, one space for Bicycle racks, one space for Handicap and an additional 7 spaces for the Tenants, is this correct?

Mr. Leeb answers; this is not what he said. What he did say was there would be Parking spaces-refers to his Exhibit. Parking spaces as outlined on the property. One of the 8 spaces is a handicap accessible space. In the striped area is a Shed. What he noted was in the area where the Shed is there could be a Bicycle Rack for (4) Bicycles.

Ms. Ebner questions if all this will fit back there with proposed vegetation...

Mr. Leeb believes it would be better for this question to be answered by the Engineer. He laid out the plan and will be more than willing to answer these questions.

Ms. Ebner questions if all the cars will be going in and out of the one driveway.

Mr. Leeb again reiterates these questions would be best answered by the Engineer.

Mr. Newman explains to Ms. Ebner the reason behind specific questions being split by different Professionals. They have different areas of Expertise...the questions have to be answered by the right Professional but your questions will be answered.

Mr. Newman asks the Public if there are any more questions for the Architect.  
Architectural questions only.

Mr. Mario LaRosa steps forward (already sworn) he begins by saying he has lived in Fair Lawn all his life before Morlite.

Mr. Newman reiterates it is questions only for the Architect.

Mr. LaRosa continues stating he lives next door to them and he called the Building Inspector...

Mr. Newman interrupts Mr. LaRosa's testimony to remind him this is for questions only. He can make comments later.

Mr. LaRosa just wants the Board to know he would be happy if they would put a (2) two-family home. A four family is just too big.

Mr. Newman thanks Mr. Larosa and opens for any other questions for the Architect. Seeing none,

Mr. Newman closes this portion.

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

Mr. Newman has one request for the Architect. Asks Mr. Leeb if he could provide the Board with a colorized rendering of what the site would look like so the Board could have a better idea..

Mr. Leeb answers yes he can.

Mr. Newman feels it is late and thinks they should all wrap it up for the evening and asks Mr. Levitt (Applicant's Attorney) if he would like to sum up the application.

Mr. Levitt states no, he will submit and thanks the Board for their time and will grant the Board whatever time necessary.

**Application carried to the April 28, 2014 Zoning Board of Adjustments Meeting with no further notice.**

Mr. Newman proceeds to Order of Business.

**Resolutions:**

1. Application #2013-36, Robert Katz & Susan Rosenfeld, 7-24 Morlot Avenue, Block 5401, Lot 1, Zone R-1-3– Proposed 6ft. fence on Corner- Approved.

Mr. Sina made a motion to approve this Resolution and Mr. Seibel seconded the motion.

VOTE: All Present – AYE

2. Resolution to Amend the B-Laws. The Amendment is to include the Pledge of Allegiance and to precede the Roll Call.

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

VOTE: All Present – AYE.

**Vouchers:**

1. Winnie Banta Hetherington & Kahn in the amount of \$816.66 for the Professional Services rendered for March 24, 2014 Zoning Board of Adjustment regular meeting.

Mr. Sina made a motion to accept this Voucher and Mr. Seibel seconded the motion.

VOTE: All Present – AYE.

**Minutes:**

1. Mr. Seibel made a motion to approve the minutes for the January 27, 2014 meeting and Mr. Pohlman seconded the motion.

VOTE: All Present - AYE

2. Mr. Lowenstein made a motion to approve the minutes for the December 16, 2014 Meeting and Mr. Sina seconded the motion.

VOTE: All Present - AYE

Discussion on the Annual Report regarding what the Board would like to be included in the annual report.

**Adjourn**

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

TIME: 10:15 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk