

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular MEETING  
Of SEPTEMBER 15, 2014**

Following are the Fair Lawn Zoning Board of Adjustment's Meeting Minutes from the Zoning Board Regular meeting held on September 15, 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.

Pledge of Allegiance is cited.

Roll Call: Present: Mr. Seibel, Mr. Sacchinelli, Mr. Racenstein, Mr. Polhman, Mr. Naveh, Mr. Lowenstein & Mr. Newman

Absent: Mr. Gil, Mr. Blecher & Mr. Puzio

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

Board Professionals in Attendance: Board Traffic Engineer: Mark Kataryniak  
Board Planner: Peter Van Den Kooy

Ms. Peck (Assistant Zoning Officer) asks the Chairman to please announce the Rosalie Street Application will not be heard tonight. Notice was deficient. They will renote with a new date.

Mr. Lowenstein would like clarification on who the Rosalie Street Applicant is.

Ms. Peck explains the Rosalie Street Application is Glen Rock Lumber & was pulled after the notice was deemed deficient.

**Residential Business:**

1. Application #2014-20, Avichai and Miriam Cohen,  
14 Bedford Place, Block 3806, Lot 7  
The conversion of the existing attic space to a bedroom would increase the FAR from 41% to 43% where 40% is permitted. D-4 variance is required as per Section 125-57D(1)(d)  
Proposed bedroom would create a third floor where only 2 1/2 stories are permitted in the R-1-3 zone as per Section 125-12 Schedule of area yard and building requirements.

Mr. Rosenberg (Board Attorney) would like the record to reflect he is a Property Owner within 200ft. of the Applicant, he has asked an Associate from his firm to sit in for him.

Mr. Newman swears in: Mr. Cohen  
14 Bedford Place  
Fair Lawn, N.J.

Amy Hummerstone (Architect)  
14 Breatly Cresent  
Fair Lawn, N.J.

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

Fees have been paid and there is proof of Service.

Ms. Hummerstone begins her testimony by stating they are requesting a Use variance for the residence and explains they would be increasing the FAR from the existing of 41% to 43% and the use of the 3<sup>rd</sup> floor as habitable space. The House is in Radburn and they are not adding any new construction. Her clients are hoping to use the existing 3<sup>rd</sup> floor space for a Bedroom.

Ms. Hummerstone states they want to enclose the existing porch on the 1<sup>st</sup> floor, they are not adding any new construction but explains this is why the FAR has been jumped from the 41% to the 43%. She explains a neighbor on Bedford basically did the same thing approximately 15 yrs ago and she has photos for review.

Ms. Hummerstone passes the Photos which are marked into evidence as Exhibit A-1 to the Board Members.

**Exhibit A-1**-Photos of Bedford Place for review of home similar to what is proposed.

Ms. Hummerstone would also like to enter into evidence, an approval from the Radburn Association for the Design.

**Exhibit A-2**-Radburn Approval for Architectural Design.

Review by Board Members...

Ms. Hummerstone concludes her testimony by stating her understanding of the prohibition of the 3<sup>rd</sup> floor and the FAR of over 40% is to prevent "McMansions". This house was built in 1932 and exists as it is now. Per her proofs of Bedford Place, it will show how well it fits in with the neighborhood. It would look very similar to this.

Mr. Newman (Chairman) clarifies there will be no increase to the building size, just in the exchange of storage place into habitable space which is why it triggered the increase in the FAR.

Ms. Hummerstone states it is a finished habitable space now, with an Attic above, but it was built this way with four walls.

Discussion.

Ms. Hummerstone explains what will be done to the area to make it habitable living space.

Discussion on the FAR and its reason behind the increase.

Ms. Hummerstone explains. What is not typical in Radburn is the two car garage which is over 400square feet, so it had to be calculated into the FAR but this again was an existing condition. Another reason for the increase was enclosing the porch.

Discussion continues....

Ms. Hummerstone notes the conversion of the other space is triggering the 3<sup>rd</sup> floor use variance.

Mr. Newman clarifies the lot size at 8200sf and notes it is **not** a small lot...

Mr. Newman asks if any Board Members have questions.

Mr. Racenstein (Board Member) refers to the Plaster walls that will be taken down during construction. The house is an old house and he has concerns with the existing insulation and its Cancer causing agents...

Ms. Hummerstone clarifies at the current time, they will not be knocking these walls down but if it needs repairs, then yes they will have to reinsulate up to today's codes.

Mr. Seibel (Board Member) asks Ms. Hummerstone when the work is completed, looking from the outside of the home, you will not be able to tell anything was done on the inside, correct?

Ms. Hummerstone (Architect) testifies the only difference would be windows in the porch instead of screens, and an Egress window on the 3<sup>rd</sup> floor which will be added by Code requirements.

Mr. Seibel asks if there is a stairway up to the 3<sup>rd</sup> floor now and is it heated upstairs?

Ms. Hummerstone states there is a full stairway and the room is heated and finished off...

Mr. Sacchinelli (Board Member) questions the Beams which are existing. They will not be removed in any way?

Ms. Hummerstone testifies no, they will not. It is proposed to be used as an open 3<sup>rd</sup> floor space but if they wanted to add two bedrooms later, there is plenty of space, ceiling height, etc...

Mr. Lowenstein (Board Member) questions the proposal. It says; proposed Bedroom would create a 3<sup>rd</sup> floor where only 2 ½ stories are permitted. Would it not be called a 3<sup>rd</sup> floor now, is there something that prevents it from being called a 3<sup>rd</sup> floor??

Ms. Hummerstone replies no, it is a 3<sup>rd</sup> floor. There is an Attic above this, so she thinks because there was no work done before, it didn't trigger anything.

Ms. Peck (Assistant Zoning Officer) explains the Ordinance only provides for 2 ½ stories in the Residential neighborhood. There is a calculation Ms. Hummerstone did to provide the determination if this would be a ½ story or a full story. She believes it was a full story...

Ms. Peck reads from the Ordinance....concludes by stating, once calculations were done by Ms. Hummerstone, it was more, so therefore generated as a story. For them to occupy a room versus attic, they needed to have it identified.

Discussion.

Ms. Peck clarifies it was the way the House was constructed, but never used as a 3<sup>rd</sup> floor. It was part of an Attic.

Mr. Lowenstein (Board Member) notes there is no construction proposed other than cosmetic, no raising, no dormers, so he is having conceptual difficulty in understanding why they are before the Board this evening...

Mr. Newman (Chairman) clarifies with Ms. Peck and states; it could be referred to as a “pre-existing non-conformity” and whether they were using it or not, if they came here for a variance or anything else, this would have to be cleaned up. They did not build it but it does not fall properly into our Ordinance.

Ms. Peck explains if they were to sell their home and the CCO Inspection were done, it would be identified as “attic space”, and if they get permission tonight, it will be identified as “livable space” in addition to the 1<sup>st</sup> & 2<sup>nd</sup> floor.

Mr. Lowenstein thanks Ms. Peck for the clarification.

Ms. Peck continues. Once it is finished as a room, it becomes livable space and they would have to meet the Building requirements. The Zoning requirements and the Building requirements are not always the same for habitable space. What our Ordinance may dictate as “non-habitable” space, the Building department could qualify it as “habitable”. There is a fine line between the two codes.

Discussion continues....

Mr. Newman (Chairman) states this is an unusual situation and an unusual FAR request because nothing is really being made bigger...no changes in height, bulk or façade...

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

Mr. Pohlman (Board Member) has a question regarding the proposal on a Deck. How far does the Deck come out?

Ms. Hummerstone (Architect) states it aligns with the front of the Porch and the side of the House.

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

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

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

Mr. Lowenstein makes a motion to approve the application.  
Mr. Racenstein seconds the motion.

**VOTE:** Mr. Seibel, Mr. Sacchinelli, Mr. Racenstein, Mr. Pohlman, Mr. Naveh,  
Mr. Lowenstein & Mr. Newman, **Yes.**

Mr. Newman would like on record that although this is going down as a D-variance for a FAR as stated by the applicant's Professional, it is really not an FAR approval in the spirit of the FAR Ordinance which was an Ordinance written to prevent the McMansions which would be increasing the Building envelope in some way which this application does not. For this reason, his vote is yes.

**Motion carries.**

**APPLICATION APPROVED.**

2. Application #2014-19, Timothy Raimondo,  
0-17 26th Street, Block 3215.01, Lot 10  
Proposed addition and front porch would increase the building coverage from 22.5% to 29.27% where 25% is permitted. Would increase the impervious coverage from 37.9% to 43.95% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements. FAR of 43.2% where 40% is permitted requires a D-4 variance as per Section 125-57.D.(1)(d)[1].

Mr. Newman swears in: Alfred Rodriguez (Architect for the Applicant)  
17-15 Maple Avenue  
Fair Lawn, N.J.

Timothy Raimondo (Applicant)  
0-17 26<sup>th</sup> Street  
Fair Lawn, N.J.

Fees have been paid and there is proof of purchase.

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

Mr. Rodriguez begins his testimony. He explains they are here tonight for three (3) variances.. Building coverage, impervious and FAR. His Client has a Split Level house and their In-Laws are now living with them so currently there are 4 Adults and 4 Children in the home. To accommodate their In-Laws, they are in the existing Bedroom wing...refers to Exhibit A2. Drawing 3-explains...this wing has been dedicated to them.

Mr. Rodriguez continues. The newly proposed floor would accommodate his clients & the two small children while the older kids would be living downstairs in the two bedrooms...

Mr. Newman interjects to explain although the Applicant feels it is important to explain their personal situations, it has no bearing on approvals based on the Municipal Land Use Law.

Mr. Rodriguez understands and explains the proposal would incorporate a larger Kitchen area with a Dining area included with a new bedroom suite. They have increased the building coverage to 29.27% where 25% is required. The impervious will be 43.95% where 35% is required and the FAR would increase to 43.2 where 37% is required.

Mr. Newman would like testimony as to what supports these increases.

Mr. Rodriguez explains. The Lot is an existing non-conforming at 6000sf in a zone where 6500 is required so they are currently undersized in the lot area and also narrow on the width..

Discussion.

Mr. Rodriguez continues...they would still require the variances but would reduce each one of percentages by approximately 2 ½%.

Discussion continues....

Mr. Newman comments there is a lot of impervious and questions Mr. Rodriguez on the basement, asking if this is included in the FAR calculation?

Mr. Rodriguez (Architect) explains the Basement is low enough where it does not have to be included in the FAR. The Garage is also excluded because it is less than 400square feet.

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

Mr. Lowenstein (Board Member) asks if there were any efforts to reduce the proposed impervious coverage.

Mr. Rodriguez explains they could eliminate some of the walkways around the back of the house and towards the front and there is a little concrete patio around the side. This could reduce it approximately 200square feet, which would be around 4% in reduction.

Discussion continues...

Mr. Lowenstein clarifies they would be roughly at 40% impervious if this was all removed, is this a fair statement to make?

Mr. Rodriguez replies yes.

Mr. Newman (Chairman) asks if there were any other Floor Plan possibilities looked at that would not be over the FAR or at least not as far over?

Mr. Newman refers to Plan A2- 2<sup>nd</sup> & 3<sup>rd</sup> level Floor plan and the rear most part of the addition includes 5ft. or so for a Jacuzzi which increases the size of the Bedroom and the Kitchen beneath it. Is this much space necessary? Would the rooms be too small if the Jacuzzi was not in the bathroom?

Mr. Rodriguez explains. It would reduce the square footage only about 50sf. on the total house, a little bit less than 1% on the FAR coverage to remove the Jacuzzi. Not a significant change.

Discussion continues in regards to other options...

Mr. Rodriguez continues to state the home does not have a Dining room, nor even a Family room on this level. There is really only a Living room and a Kitchen on the main floor level...

Mr. Rodriguez discusses some options of reduction within this area...

Mr. Raimondo (Applicant) states the biggest loss with this option discussed would be the Kitchen area which is mostly the main help he needs. This is his biggest issue right now trying to accommodate all his family at one time.

Mr. Newman reiterates he does understand but the amount of people living in the home is not something the Board can consider in their approval. It has no bearing.

Mr. Seibel (Board Member) questions the 2<sup>nd</sup> & 3<sup>rd</sup> level floor plan, there is a room unnamed.

Mr. Rodriguez explains. It is a Bedroom right now. It will be space for the parents to have a little family room of their own.

Discussion....

Mr. Newman notes, essentially this will be set up as a two family house in a weird way.

Mr. Rodriguez testifies there will be no separate entrance...

Mr. Newman clarifies... this proposal is asking for approval to accommodate two families in one home in almost private Quarters.

Mr. Newman wants to know how many Bedrooms will there be in total.

Mr. Rodriguez testifies to (7) Bedrooms.

Mr. Newman notes he does not know of any 7 Bedroom homes in Fair Lawn.

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

Mr. Seibel (Board Member) notes the Bathroom on the 2<sup>nd</sup> & 3<sup>rd</sup> level.... off the Master Bedroom, a shower, a Jacuzzi, double sinks...a 5 fixture bathroom and a walk in closet.

Mr. Newman interjects to explain some of the sentiments of the Board Members. There seems to be a lot of non-necessity in these Floor plans. Explains...7 bedrooms, walk in closets, etc...it's excessive. For the size of the lot, in this zone, in this town...

Mr. Rodriguez (Architect) suggests they should tweak the plan and come back with a revised Proposal.

Mr. Newman feels this would be a reasonable thought and asks if any of the Board Members feel differently...seeing none, Mr. Newman suggests doing so.

Discussion on the next available meeting with Ms. Peck (Assistant Zoning Officer)

Mr. Newman announces the carrying of this Application to October 27, 2014.  
No further notice is required,

#### **APPLICATION CARRIED TO OCTOBER 27, 2014**

Mr. Pohlman (Board Member) recuses himself from the next Application due to a conflict of interest.

**Commercial New Business:**

1. Application #2014-22, Metro Dance & Acrobatic LLC.  
17-01 Pollitt Drive, Block 4802, Lot 4  
The proposed use of Dance, Tumbling and Acrobatic Skills School is not permitted in the I-2 Zone. D-2 use variance is required as per Section 125-57.D.(1)(d)

Mr. Gary Zalarick from the Law Firm of Sammaro & Zalarick steps forward on behalf of the Applicant Metro Dance & Acrobatic.

Mr. Newman (Chairman) swears in: Christina Evers  
5-22 5<sup>th</sup> Street  
Fair Lawn, N.J.

Charles J Woodzac  
200 Corporate Circle  
Toms River, N.J.

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

Mr. Newman swears in the Board Professionals: Peter Van Den Kooy- Board Planner  
Mark Kataryniak – Board Traffic Engineer

Fees have been paid and there is proof of Service.

Mr. Rosenberg (Board Attorney) states for the record, there are 6 Voting Members this evening and as he understands it, they will move for a vote this evening.

Mr. Zalarick (Attorney) concurs with this & does a brief review of his client's proposal beginning with explaining the application is for 17-01 Pollitt Drive, in Fair Lawn. The Complex is 105, 367 square feet of space. The application before them tonight is to occupy only 4,020square feet for 3.8% of the total building.

Mr. Zalarick explains, when the application was presented, they were trying to seek a waiver of the Site plan being it was such a small portion of the entire building. They were able to obtain a prior file, with the help of Ms. Peck (Assistant Zoning Officer) of an older Site Plan from 2006. The purpose of this is to establish this building does have 275 Parking spaces available for it. In 2006 it came before the Board and increased the spaces to 275 for parking and the reason he is bringing this up is for the Board to have the understanding of the size of the building, the parking spaces and the small size of the Applicant before them.

Mr. Zalarick explains he did not want the burden of providing a Site Plan on the Applicant for a small application. He is hoping the Board will waive this requirement & use the Site Plan on Record of 2006.

Mr. Rosenberg (Board Attorney) defers to Mr. Newman (Chairman) to state; given the nature of the extent, the Board does have the authority to do this. He refers to the letter from the Board Engineer, Mr. Azzolina. The Applicant is not proposing any additional changes to the site whatsoever, they are merely seeking to occupy 4,028square feet of the building. Our Board Experts are here and can speak to this as the testimony proceeds.

Mr. Rosenberg states legally, it is certainly permitted under the Ordinance.

Mr. Newman (Chairman) asks Ms. Peck (Assistant Zoning Officer) if there have been any changes to the site since 2006.

Discussion regarding the site.

Mr. Zalarick states this Applicant is making no changes to the Building whatsoever, except two walls that will be put up to separate the Studio rooms.

Mr. Zalarick would like the Applicant, Christina Evers come forth and explain what exactly is proposed, what they can expect to have there and so forth....

Mr. Newman states before moving forward with Ms. Evers testimony, he would like to put this Site Plan issue to rest. Asks the Board Professionals if there are any comments on this.

Mr. Mark Kataryniak (Board Traffic Engineer) so notes Mr. Azzolina's (Board Engineer) summary of the application is correct. He concurs the Applicant is not proposing any physical changes to the site or the physical exterior of the building with this proposal. It will be only partition changes within the building which would not constitute traditional Site plan requirements.

Mr. Kataryniak continues. There is what he calls a "technical" requirement in the Ordinance which is 125-65.B. (2) C. Explains; His read is that the Board can look at the testimony for the parking requirements in lieu of a Site plan, to waive this Site plan requirement. With the exception of the technicality to the parking requirement, both in his report and Mr. Van Den Kooy's report, they have asked for testimony on the parking and if the Applicant can provide testimony for the parking alone and show that parking would be adequate it could be used in lieu of a Site plan.

Discussion....

Mr. Kataryniak clarifies; in lieu of a Site plan, the Board would waive a new Site plan for this revision.

Mr. Van Den Kooy (Board Planner) concurs with Mr. Kataryniak. He covered everything in regards to the Ordinance 125-65.B. (2) C.

Mr. Newman asks if any Board Members have any other questions regarding this subject. Seeing none,

Mr. Newman defers to the Board Attorney, Mr. Rosenberg for discussion regarding a Roll Call vote with regards to waiver on the Site Plan requirement.

Discussion.....

Mr. Newman asks Board Members to vote on a waiver with regards to a new Site plan requirement and using the 2006 Site plan.

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

Mr. Zalarick calls Christina Evers to the Podium and asks her to give a little background of herself to the Board.

Ms. Evers begins by stating she lives in Fair Lawn and has lived in Fair lawn practically her whole life, graduated from F.L.H.S.

Mr. Zalarick asks Ms. Evers to speak to Metro Dance & Acrobatic, LLC.

Ms. Evers explains she is the Owner of Metro Dance & Acrobatic Company and has owned it since 2011. She had the Company running most recently with space under 1000sf and prior to this 2,500sf.

Ms. Evers, under cross explains the age of the clientele runs anywhere from 18months to Adult age. She teaches Dance and Gymnastics and acrobatic which consists of Classical Ballet, Tap, Jazz. The Gymnastic skills mostly don't involve any equipment, it's just for tumbling and the Acrobatics is more like advanced Cheerleading, more of an ancient art than a Squad....it requires a lot of skill.

Ms. Evers testifies she is a Member of USA Gymnastics and has been a member, a professional member since 2005. Over the past 3 years, her school has had over 100 members and does have competitive teams.

Mr. Zalarick (Attorney for the Applicant) continues his cross and asks what brought Ms. Evers to this location in Fair Lawn.

Ms. Evers testifies the “Promenade” has helped a lot, having the shops right down the street. The convenience of Route 208. She was in West Milford before so she would have to be in an area where there is an option for her clients to come down, even though it is far, she does have clients that are planning to come down.

Ms. Evers continues...in this location there is a lot of traffic coming in and out. It is Family oriented.

Mr. Zalarick refers to her experience in running the School and asks; Do the parents or the person dropping off the students stay during the class?

Ms. Evers testifies no. She explains they usually drop off and come back in an hour, an hour in a half, however long the class and pick up their child. She believes the “Promenade” location would be a prominent place for them to go to wait the hour.

Mr. Zalarick asks Ms. Evers to elaborate on the classes, how long the classes run, how many students in each class, etc..

Ms. Evers explains the classes range from an hour to an hour in a half long. There are 10 children per Instructor. Three Dance rooms are proposed. There will be one Secretary and 3 Instructors. Three (3) Classes would be going on at the most busiest times.

Testimony continues...

Ms. Evers is asked about her other location and how that operation worked with drop-offs and what would be the plan in this particular location for drop-offs and pickups?

Ms. Evers explains how she would see this working is to come in through the driveway, drop off the children, and when the children leave the Secretary, they will bring them out and bring them to the parents. This would be the current plan if the parents are not coming into the building.

Mr. Zalarick asks Ms. Evers to give testimony on the proposed hours of the Operation.

Ms. Evers states her proposed hours for this Operation is 10am to 9pm, Monday through Friday and on Saturday's and Sundays, 10am to 6pm. The busiest hours being Monday through Friday, 4pm to 8:30pm.

Ms. Evers testifies her busiest hours are Monday through Friday between 4-8:30pm because she deals with Children who are in School all day so they don't come until after School and weekends.

Mr. Zalarick asks Ms. Evers to speak to Competitive Events and if she plans to host any of these events where other people would be coming to this location.

Ms. Evers testifies no and the reason for this would be it is not a big enough location and she would have to go elsewhere. The only people that would be attending this location would be Students who will be attending Class Sessions.

Testimony continues....

Ms. Evers explains how the student would be enrolled. Times available, etc...  
The Class maximum would be ten (10) because there is a Class safety regulation of USAG.  
(U.S.A. Gymnastics)

Maximum amount of Students would be 30.

Mr. Zalarick asks Ms. Evers the reason behind the need for the ceiling height of 20ft.

Ms. Evers explains once the Students begin doing higher level skills, they need to be able to practice on bouncier surfaces, springs, etc.... states when she was in the West Milford location, her ceiling height was only 9ft. and she could not install the proper flooring for more advanced Gymnastic skills...

Mr. Zalarick asks Ms. Evers to explain bouncier flooring.

Ms. Evers states it is not Trampolines or nothing like that. It is called a Tumble Track, it is a long trampoline, not quite as bouncy but it helps the Students gain more skills. Speaks to the sprung floor which is a spring watered floor, regulated by USA Gymnastics as well, plywood, springs, etc. It would be similar to the Olympics when they do the Floor routines without the equipment. Tumbling on a Mat, doing flips and being able to do things without the equipment which raises them higher.

Mr. Zalarick asks Ms. Evers if it is mandatory to have full Insurance and if she does have this.

Ms. Evers testifies it is Mandatory and she does have full Insurance.

Mr. Zalarick has no further questions for his client unless the Board has questions regarding the Operation, he has concluded his questioning...

Mr. Zalarick has one further question upon thought. Asks Ms. Evers when the Student gets dropped off, where are they coming into the building?

Ms. Evers testifies they would come through the front door, go down a common hallway, make a right and right there is the Office which they would then be instructed to go to Room A, B or C. Upon completion of the class, if the parent does come in, they would follow the same route, ask for their Son or Daughter, get the name checked off and leave the same way.

Ms. Evers concurs with Mr. Zalarick regarding pick up, explaining the scenario where the parent did not come in, then the Secretary would walk the Student out to the car...

No further questions from Mr. Zalarick.

Mr. Newman (Chairman) asks Mr. Zalarick he would assume at some point they would be dovetailing this testimony into discussion about parking, correct?

Mr. Zalarick explains he was going to leave that discussion to the Planner.

Discussion.....

Mr. Newman would like Ms. Evers take on this and asks Ms. Evers if she is as successful as she hopes she will be and she is packed with 30 students at all times, how many cars on average would she say might park if she has 30 students?

Ms. Evers testifies the waiting area is only going to be between 8-10 feet, so she would think only 8-10 cars on average.

Discussion on how many parents on average stayed at her last location for the full class time.

Ms. Evers testifies to less than 25% of parents stayed for each class.

Ms. Evers also testifies at her last location, there were no stores like Anthony's Coal Pizza, Starbucks, etc...they dropped them off, went home or to other activities.

Mr. Newman asks if any members of the Board have questions.

Mr. Racenstein (Board Member) refers to testimony regarding children of 18months. 18 month old children are known to get sick or get hurt during the course of an hour. Does she have a nurse there to take care of them if they get injured on site?

Ms. Evers testifies her Mother is an LPN. She will be there at all times because she is my Secretary.

Mr. Newman would like clarification on this. Her Mother is not going to be employed as a Nurse at the Facility, nor are they required by USA Gymnastics, or a Borough Ordinance or a State Law to have a Nurse on site.

Ms. Evers testifies this is correct, she is just lucky her Mom is a Nurse.

Mr. Sacchinelli (Board Member) would like clarification on the number of Students.

Ms. Evers explains there would be 10 Students per Instructor. She has 3 Instructors, so it would be 30 Students maximum.

Discussion continues.....

Mr. Sacchinelli questions the waiting area and if there are restrictions on how many people can be in this 4000sf?

Mr. Newman (Chairman) swears in Ms. Peck (Assistant Zoning Officer) to answer this question.

Ms. Peck testifies that the Building Department will require an Architect to do an Occupancy Load.

Mr. Seibel (Board Member) questions the Security of watching the Children come in and go out. There will be little children going in and out, are there any plans for Cameras, other than the Secretary who will shuffle kids in and out?

Ms. Evers testifies she would have Cameras with the CCTV for the Waiting Area. From the Studios to the Secretary...this is pretty much the only Security Camera they were plan on having.

Discussion.....

Mr. Seibel comments to the Board Members that his wife took Gymnastics for many years and the testimony Ms. Evers has given regarding the parents dropping of the kids is true. The parents are pushing the kids out of the car as they drive by and they don't usually go inside....

Discussion continues...

Mr. Lowenstein (Board Member) asks Ms. Evers if she plans to have any Activities like this.

Ms. Evers testifies yes. On Weekends, Saturday & Sundays.

Mr. Newman comments on the Parking needed...

Ms. Evers states she would not have 3 Parties at one time, most likely one party per time slot.

Discussion.....

Mr. Kataryniak (Board Traffic Engineer) asks a question regarding the Classes. She mentioned an hour to an hour in a half blocks. Are these staggered times for these classes or do they all turn over at the same time?

Ms. Evers testifies she thinks they are mostly at the same time. She would say maybe one or two days are staggered but generally 4:15/5:15/6:15 and the last class would be an 1 ½.

Mr. Kataryniak clarifies her busiest times are Saturdays and Weekday evening where 3 classes are turning over at the same time?

Ms. Evers states yes.

Ms. Peck (Assistant Zoning Officer) clarifies the Parties will not be at the same time as the Classes, correct?

Ms. Evers states no. They would be in the afternoon.

Discussion continues....

Mr. Newman notes she would have to comply with the Occupancy Load and what numbers are allowed.

Mr. Lowenstein (Board Member) notes he was under the impression there would be a separate entrance from the Parking into the Studio, but there is only a central doorway.

Ms. Evers testifies yes. The front door to the building. It is a building that is shared by other Occupants.

Discussion....

Mr. Lowenstein clarifies how many feet from the front door to her Studio.

Ms. Evers states 25ft from drop-off to Main door, then 50-75 feet to her Studio.

Discussion continues.....

Ms. Evers (Applicant) testifies there is a lot of Office Space when you first walk into the Front Door and if the Board feels it would be better to have her Office there and the Owner is okay with this she would not be opposed to this and the Children can be walked from there...

Discussion...

Mr. Zalarick (Applicant's Attorney) notes Ms. Evers kind gesture but states unfortunately he has an agreement with the Landlord for specific spots, so if the Board would prefer this, he would have to go back and re-negotiate the entire lease with this spot, so he does not know if this would be possible.

Discussion continues....

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

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

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

**Mr. Newman calls a 5 minute Recess before proceeding.**

**Mr. Newman calls the Meeting back to Order.**

**Roll Call: Mr. Seibel, Mr. Sacchinelli, Mr. Lowenstein, Mr. Racenstein, Mr. Naveh  
& Mr. Newman, present.**

Mr. Zalarick (Applicant's Attorney) calls his next witness to the Podium, Mr. Charles Woodzac who already has been certified as a Professional Planner by the Board.

Mr. Zalarick begins his questioning of Mr. Woodzac.

Mr. Woodzac begins his testimony by stating he had evaluated this Site as a Planner and evaluated it also based on the review letters provided by the Board Professionals.

The first question Mr. Zalarick would like Mr. Woodzac to address is the Parking issue. Is he familiar with the location and the parking requirements for this location?

Mr. Woodzac testifies he is familiar with the required, the proposed and supplied. He clarifies to the Board, the address, Block & Lot, square footage. Explains the existing parking as described before is 275 Parking spaces on site, those are 9x20 spaces which is in accordance to the Ordinance requirements. Total Building size is 105,367 square feet.

Mr. Woodzac describes the four (4) other uses in the building they noted at this time.

1. Kratos, HBE/a Security based operation.
2. Semperit
3. US Technologies
4. Keona USA

Mr. Woodzac continues...regarding the parking requirements per the Ordinance, this particular building fell into the category of two different parking requirements. Explains there was the Manufacturing criteria which is one parking space per 4inch square feet & the Warehouse criteria which is (inaudible) by 900...although they do not have exact calculations as to what the breakdown inside the building was, they felt the conservative estimate of the breakdown was probably about 50/50 between the Manufacturing & Warehousing at this point in time.

Mr. Woodzac continues with his testimony....explains if you were to take the existing building at 105,000 and change in square footage and evaluate it based on a more intense parking requirement which is one per 400square feet, you would need 263 spaces for the entire site, so they have already indicated there are 275 spaces on the site right now, so it is in excess at this moment in time.

Testimony continues...

Mr. Woodzac continues with his calculations...

Mr. Woodzac (Applicant's Planner) notes several years have shown there has always been excess spaces on the site so he feels comfortable with the fact there are no parking issues with the site right now. When the proposed use was evaluated, the requirement was (1) per 100...details the calculations.

Testimony continues...

Mr. Woodzac notes Ms. Evers had given testimony indicating with her previous facilities of this nature, in which one was 2500sf, approximately 10 spaces were used there which would give a ratio of one (1) to 50sf. If they were to use this as a more indicative number for the site, this would increase the demand right now for this particular use by 11 spaces. They believe they are well within the scope of what she needs.

Mr. Zalarick (Applicant's Attorney) clarifies with Mr. Woodzac that the testimony he has given is that parking is sufficient at 275 spaces including the uses currently there.

Mr. Woodsac testifies yes.

Mr. Zalarick continues his questioning. Asks Mr. Woodsac if he is familiar with the Master Plan of the Borough of Fair Lawn and does he believe the proposed use would be consistent with the use of the Master Plan. Can he speak to the positive criteria of this proposed use in this zone?

Mr. Woodsac testifies the positive criteria related to the Ordinance itself is two-fold. There is a State Redevelopment plan which is one consideration. This particular area is the planning area which is the metropolitan area and several of the goals of this particular criteria is to provide growth and revitalization of the existing facilities and provide service to allow stabilization of the existing Suburbs. This is an existing facility that is not being currently utilized for any use, and this will allow the service of development in the area without providing additional impervious..

Testimony continues...

Mr. Woodsac points out there is no Environmental impact, etc...  
This Site would serve well in its service due to its location, its close proximity to Residential yet separated in a reasonable distance.

Testimony continues...

Mr. Woodsac reviews other uses at this location... Establishments that cater to the needs in the area and he believes the proposed use would also be a need requirement, the same as Health & Fitness Center, he believes it falls into the same category.

Testimony continues...

Mr. Woodsac testifies he feels the Industrial Zone have moved in the direction to facilitate the transfer of these types of services and provide Community's needs.

Mr. Zalarick would like Mr. Woodsac to speak to the negative impact to the surrounding areas if any, by allowing this type of use in this Zone.

Mr. Woodsac testifies he cannot and does not find any negative impact of this use in this zone. He believes the Board could grant this use variance without any substantial impairment to the Zoning Plan Ordinance. This is a large open space with high ceilings which is necessary for this type of use.

Mr. Zalarick asks if the Board has any questions of his Expert, Mr. Woodsac.

Mr. Peter Van Den Kooy (Board Planner) would like to clarify. He has heard most of the positive criteria, but he is not sure he understood what purposes of the Municipal Land Use Law this application serves?

Mr. Woodsac (Applicant's Planner) reviews this criteria in order to answer the question.

Discussion...

Mr. Woodsac reads from the Municipal Land Use and quotes; to encourage planned units developments which incorporate the best feature of the designs that relate to the type of design, layout of Commercial and Residential facilities. He believes it falls into this category.

Mr. Van Den Kooy has one other clarification and this is on the operations inside the building. Speaks to the Hallway and the various areas this use is proposed to occupy. Does the hallway extend into other portions of operations of warehousing usage or does it come to an end at that portion of the building?

Mr. Zalarick (Applicant's Attorney) believes Ms. Evers can testify to this. Explains as you walk into the building and goes straight down, you make a right and you end up in her Office. During this walk down the common hallway there are 3 other Offices that you could go into, but it is the Offices of these Tenants, not their Warehouse you would have access to.

Mr. Van Den Kooy has no further questions.

Mr. Mark Kataryniak (Board Traffic Engineer) does not remember hearing it in testimony, so he would like to know how much of space in the building is currently vacant.

Mr. Zalarick would like to clarify. He thinks they gave the wrong numbers before. Defers to Ms. Evers and asks; if she is aware there is vacant space in this building?

Ms. Evers replies yes.

Mr. Zalarick continues. The total amount, including your space in this building was how many square feet?

Ms. Evers replies; 17,000sf.

Mr. Zalarick continues clarification of the square footage by stating once she occupies the 4000sf, if the Board gives permission, there will be remaining 13,000sf vacant in the building itself, correct.

Ms. Evers concurs.

Mr. Kataryniak (Board Traffic Engineer) clarifies the building presently is better than 80% occupied at this point and moves to speak with respect to the Parking analysis. He concurs, based on the 4000square feet proposed by the Applicant that 40 spaces would be required for the Commercial School at the rate of 1 space per 100square feet, based on the Manufacturing Industrial requirements or Storage Warehouse requirements. This requirement would vary between 5-10 spaces for this same 4000square feet. He would say the Applicant would be required to have a variance for a net increase of 35 spaces.

Mr. Kataryniak continues. Speaks to hearing testimony regarding the hours of Operation. Not counting the specific use of the School as the Applicant has described it, there is a shared parking issue here and a shared parking benefit here. Peak hours of Operation for this proposed activity would occur when the existing operations of the building are not in use. After hours, after 4pm, on the weekends, the 80% of the occupied building would not be in operation during these times so there is adequate overflow. That & the testimony provided for the total parking on the site combined with the Applicant's specific testimony regarding the frequency of drop-offs and the ratio of parking that she had experienced with her business based on her clientele, there is an adequate buffer with the parking. Technically, they do need a variance, but the parking is adequate based on the shared parking use on site.

Mr. Newman (Chairman) defers to Mr. Katayniak for clarification. Knowing they have done this before with these buildings in this location.

Mr. Kataryniak notes Retro Fitness was the last application.

Mr. Newman notes, to their knowledge, there has been no other parking variances that have been granted on this site?

Ms. Peck (Assistant Zoning Officer) states not to her knowledge. 2006 was the last parking variance she could find.

Discussion continues...

Mr. Kataryniak clarifies the other Occupants would follow one of the two standards that would be applicable. One would be 1 per 400 or 1 per 900/depending on the specific use. If they look at the square footage on the 2006 Site plan, and the 275 parking spaces, this nets out to 1 space per 385square feet, approximately...slightly better than the 1 per 400 Manufacturing Industrial Ratio that is required by Ordinance..

Discussion continues...

Mr. Newman (Chairman) notes where he starts to get concerned is; they have an application like this where, hypothetically the reality will be that Ms. Evers will never need more than 10 spaces, but based on criteria they will potentially give her a variance for 35. It covers everyone for now because she has more than enough parking spaces...but what about the next use that comes in? We are seeing this Zone turn into these types of uses and feels the Board has to be careful about how many spaces they require the Applicant or Operation to have so they can insure to some extent, there is a cash of parking spaces left for the next Applicant to fill up the 13,000square feet or if a use changes on the Site, they give themselves some wiggle room with being able to approve something there.

Discussion continues.....

Mr. Kataryniak concurs with Mr. Newman and notes it is a common issue, not just unique to Fair Lawn, explains. It becomes an Enforcement issue because the books need to be maintained so to speak, on the parking ratios for each of the Independent uses within the building.

Discussion continues.

Mr. Kataryniak explains...if the numbers calculate out to being in excess of what is there, then you need a variance...there is also the reality of how each individual use within the buildings would operate. Explains; the next space that would go in, if that balance of the square footage were to go in with a high intense of parking use, it would have to come before the Board and be netted out. He notes the shared parking is the critical piece to this...explains...

Speaks to many uses with intense parking requirements, including Medical, notes this could also work if it does not compete with the other uses there. It's like a two prong analysis, where you calculate the parking requirements out based on the strict square footage and use and look at the specifics of the use and how it relates to the other uses within the building to look for that shared parking concept to evaluate the variance needed.

Mr. Newman asks Mr. Kataryniak, with all this considered, does the Board need to give this Application a variance for 35 spaces?

Discussion continues.....

Mr. Kataryniak concurs with Mr. Newman in saying this use most likely would not need 35 spaces, and it would leave a little more room or space for future uses or change of use within the building to avoid a problem down the line.

Mr. Newman asks Mr. Zalarick (Applicant's Attorney) if they think they would need 35 spaces.

Mr. Zalarick states no, but has a question. "If they are really calculating the square footage, they would have to make the assumption that some of this building is Warehouse storage? When they are making the calculation for the variance, they are assuming its manufacturing and nothing is for warehouse storage. Warehouse storage is 1 per 900, which would drop this considerably...so even if they went with the ratio of 70 manufacturing, 30 warehouse, the number would drop considerably from the current use, way down from the 275, so even with their complete use, he does not see how they would even need a parking variance."

Mr. Zalarick returns to the question Mr. Newman asked regarding the need for 35 spaces and states they would be very comfortable with a total of 21 total spots. They have (5) and would need 16 more, but he does not feel they need a parking variance because they are not giving any credit to the warehouse space.

Discussion continues....

Mr. Kataryniak (Board Traffic Engineer) explains if you were to take the two extremes, they would need 5 & 10 spaces of the Warehouse versus the Manufacturing Industrial spaces...so if it was all warehouse, it would be 5 spaces, if it were Manufacturing Industrial spaces it would be 10 spaces for the 4,000sf. If you look at a balance, the largest disparity would be a 35 space deficit versus a 30 space deficit.

Discussion continues.....

Mr. Zalarick disagrees. If they consider this entire 105,367sf manufacturing and Industrial, 263 spaces would be needed. They have to make the assumption that it is not all manufacturing & Industrial. Some of it is storage and warehouse. Storage and warehouse is 1 per 900. If the entire building were storage and warehouses, there would only be 117 needed.

Discussion continues....

Mr. Rosenberg (Board Attorney) interjects to state; let's get back to the Chairman's point, the future. Because in the future, the uses will change, and so he thinks the Chairman is properly saying; how do we allocate for this so everyone is comfortable going into the future. Mr. Kataryniak is trying to be fair...he has seen and the Board has seen repurposing of these buildings and how do you make sure the Zoning Officer is not going to be caught up in this issue of new tenants coming in with different kinds of parking ratios and everyone is comfortable with the mix of tenants going forward...

Mr. Zalarick (Applicant's Attorney) states; then don't give any parking variance. Permit the use with no parking variance so this way, they are not exposing themselves to any more than 275.

Discussion continues...

Mr. Newman interjects to note to Mr. Zalarick they do want to make sure the Applicant does have the amount of spaces that she needs, just not more than needed.

Mr. Kataryniak (Board Traffic Engineer) explains if they are talking about the entire building or a portion within the building, the parking shakes out to, a pro rata share if you will, in terms of how to distribute the parking in any variance that would be required...

Mr. Katayniak continues....explains how other towns calculate.

Mr. Newman clarifies to Mr. Zalarick; it is not the 35 parking spaces variance he is uncomfortable with granting, it is the unnecessary 35 parking spaces. If you do not need it, why use calculations that may be over allocating parking spaces to this particular use. If they needed it, he wouldn't have had the conversation, but the use does not need this many, so why are we talking about this many...

Discussion continues....

Mr. Kataryniak recommends the Board consider some sort of a recognition for the variance that the parking calculation is more intense for this 4,000square foot use than would be required in the existing building as there is some intensification of the parking usage that would require some additional parking spaces, however this could bear with the other testimony of operations he feels would be certainly a balancing test on the variance.

Discussion continues....

Mr. Kataryniak notes the Site spaces are designated for each one of the tenant uses. The parking spaces are numbered or allocated in some fashion. Clarifies this with Mr. Zalarick who testifies he is correct.

He thinks it is important to look at parking demands. Parking demands very rarely correlate directly to parking Ordinance requirement. You have to look the Ordinance requirement, the demand of the use and reconcile these two things.

Mr. Newman notes just for the balance of the argument, this Board has granted variances in both directions for parking here. If someone needs more parking than allocated, they asks for more and we grant them the spaces....

Mr. Newman continues...it goes both ways. Let's just hear from the Applicant, whatever it is, he is ok with the numbers, he thinks the Applicant should be asking for a variance for the amount of

parking spaces they feel they required now and in the future and the Board can make their decision based on this. If it is 35, that's fine, if its 10 that fine.

Ms. Peck (Assistant Zoning Officer) interjects to explain she has an issue with this. She has to enforce this.....the Ordinance requires her to take each individual use and calculate it based on the parking requirements. If the parking requirement says they need 40 spaces, they can't tell me they only need 10spaces. She is still required to count the 40.

Discussion continues.....

Ms. Peck clarifies the Board has granted variances before only because the Applicant had exceeded the parking requirement, not for less parking than required.

Ms. Peck continues. She had asked originally asked the Applicant for a Parking analysis. This would have given us all the uses in the structure. It would have told us how many Offices, how much square footage in each office. This didn't happen, so we tried to rely on the prior Site plan which had it broken down...refers to one in the Board Packages which has parking calculations on it...stating how much is Warehouse space, and how much was Office.

The Board does a review of Parking calculations & Office space Ms. Peck referred to....dated 1999, done by Carl Mecky.

Discussion continues.....

Mr. Rosenberg (Board Attorney) advises the Board. They could take the testimony of the Applicant, the testimony of the Board Traffic Engineer, Mr. Kataryniak and note with this particular user, the Board look at the shared parking, the difference in the time to mitigate in favor of the Use variance and an additional parking variance that is needed for this particular address. He thinks this is the way the Board should look at the Application.

Discussion continues...

Mr. Rosenberg notes the Planning Board Application discussed is telling the Property Owner did already need a variance and was granted it, presumably by the Planning board and technically this Applicant, he believes, based on the testimony of Mr. Kataryniak and the analysis done also leads to the same conclusion, there is technically a Parking variance required.

Discussion.

Mr. Kataryniak (Board Traffic Engineer) explains; in looking at the square footage of the plan from the prior site plan where 343 were required...it is around a 60/40 split of Office versus Manufacturing Industrial. If you take the Office requirement of 60,000 of the 100,000ft., and the Industrial of the remaining 40,000, it nets out to 340 spaces. He feels they are in the ballpark of the breakdown of this building when it was initially approved was 60,000 Office and 40,000 Manufacturing Industrial.

Mr. Kataryniak continues... The Planning Board in granting the variance from 343 required to 275 provided recognized some breakdown. There was a variance granted for the reduction in parking... Again, if they look at the current uses now, the current activities, there is not a parking overflow. The parking is adequate and provided so it falls back into the parking demand versus the parking Ordinance requirement.

Mr. Kataryniak notes; to meet the technical requirement of the Ordinance, this use proposes an intensity of the parking for that 4,000sf proportion & he feels the Board has to recognize a variance for parking is required and look at the other operations and the non-coincidence timing of the parking versus the other uses and their justification of the variance.

Discussion continues...

Mr. Rosenberg (Board Attorney) points out that when the previous application was presented to the Planning Board, the proportion of Office in this building was dramatically larger than it is today, correct?

Mr. Kataryniak concurs with Mr. Rosenberg and states this is why it is a common problem with these types of uses and buildings. It does require a Parking Analysis to breakdown the components...

Discussion continues....

Mr. Newman (Chairman) states; with all this being said, he thinks the only thing they all agree on is they would not need more than 35 spaces. They all agree the Applicant will need a variance.

Mr. Lowenstein (Board Member) refers to testimony and notes; the maximum capacity will be 30 students and 4 Employees. If every one of these students were dropped off by a single car and there is no 15minute gap, one class finishes and the other starts, there will be potentially 60 cars at each hour interval. He does not see a 35 parking space maximum, he sees a 65 maximum.

Discussion.

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

**Mr. Newman calls the Meeting back to Order.**

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

Mr. Newman (Chairman) directs his question to Mr. Kataryniak (Board Traffic Engineer) and asks; based on all this conversation, what his final recommendation would be on a Parking variance number?

Mr. Kataryniak states if you take a blended calculation of the existing space based on the proportions of what is existing in this building today, they would get a parking requirement of the existing use of about 10 spaces. His recommendation would be a 30 space Parking variance.

Mr. Newman turns to Mr. Zalarick (Applicant's Attorney) and asks if this seems adequate.

Mr. Zalarick is fine with this number.

Mr. Kataryniak (Board Traffic Engineer) continues with his next question for the Planner, Mr. Woodsac. Can they describe any signage being proposed for this use?

Mr. Woodsac (Applicant's Planner) replies; the only signage being utilized is what is on the current directory right now. There is space for the existing tenants that are no longer there. We will fill one of these spaces with her (Ms. Evers) Plaque. (Metro Dance) No other signage than this, except inside the Building on the Studio doors.

Mr. Kataryniak has no further questions.

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

Mr. Lowenstein (Board Member) notes, he is looking at 4 Documents, describes them and questions the Applicant's business location which he does not see on this. He would like some clarification...also, who did the writing on the sheets and when it was done.

Ms. Peck (Assistant Zoning Officer) clarifies these are the Tax Maps that were given to them with the Property Lists and part of the requirement is to list the Property Owners and the surrounding Lots...details these pages.

Discussion & Clarification...

Mr. Rosenberg would like this marked as Exhibit A3-Kusher's Company Plan attached with the Application, prepared by ISL.

Mr. Zalarick (Applicant's Attorney) refers to Exhibit A3 and asks Ms. Evers (Applicant) does she recognize this Floor Plan? She replies yes.

Mr. Zalarick continues. In this Floor Plan, it is marked at (A) (B) (C) & (OF) and describes each.

- A- 1<sup>st</sup> Studio,
  - B- 2<sup>nd</sup> Studio,
  - C- 3<sup>rd</sup> Studio
- OF (Office) and this would be the 4,000sf she would be renting.

Ms. Evers replies yes.

Mr. Zalarick passes the Board Members the Floor Plan to get a better indication of the location.

Mr. Lowenstein questions if it shows where the Entry door and Exit door is.

Mr. Zalarick replies no, but he will mark where it is.

Mr. Woodsac (Applicant's Planner) clarifies there is a small portion of the building that would be closer to Pollitt Drive. This would be the front of the building as you go into the site.

Review & clarification by Board Members...

Discussion continues...

Mr. Van Den Kooy (Board's Professional Planner) refers to Exhibit A4 which may give a better detail of the Entry, etc...

Mr. Lowenstein (Board Member) notes he still finds it confusing....

Discussion continues....

Mr. Seibel questions the amount of Studios, which is three (3).

Mr. Zalarick (Applicant's Attorney) explains the reasons for the amount of Studios, is that each class can be broken down to 10 Students, each with one Instructor in each.

Mr. Seibel questions if the Office watches all 3 Instructors.

Ms. Evers (Applicant) testifies no. The Instructors watch over the Students but there will be walking done from the Front Desk to the Instructors for communication purposes when necessary.

Mr. Seibel asks if there is a Dressing Room or a Locker Rm.

Ms. Evers explains. They will not have a specific changing room because the students usually arrive dressed.

Mr. Racenstein (Board Member) refers to testimony earlier in the evening which mentioned the building was under the 4,000sf, and then later 17,000sf was mentioned, what is this 17,000sf?

Mr. Zalarick explains. 105,000sf and change is the entire building, 17,000sf was vacant. 4,000 of this vacancy is what his Applicant is trying to seek approval for.

Mr. Racenstein clarifies the Entry point.

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

Mr. Newman opens to Residents within 200feet of the Applicant for questions of the Planner. Seeing none.

Mr. Newman closes this portion.

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

Mr. Newman asks Mr. Zalarick for his next witness or summary.

Mr. Zalarick has no other witness and just a brief summary. In summary, the variance that is being asked and as testified by the Planner would promote the Master Plan. He believes the Planner indicated quite clearly the positives far outweigh any negatives if there were even any negatives...

Mr. Zalarick continues. He specifically asked the Planner whether or not this variance could be granted without any substantial impairment of the Zoning Plan or Ordinance and he said absolutely.

Mr. Zalarick continues....describes the uses that have been improved over the past. Child Care Centers, Laser Eye Care, Dialysis Centers, etc...he believes the Zone itself has been requesting uses that have been needed in this area. Now with the Promenade, more residential dwellings. The use is consistent with the service and the service is being demanded upon by the residential use that is being designed.

This use will not put any detriment to anyone in the area, will not be detrimental to the Master plan and will promote wellbeing within the borough of Fair Lawn. There is no negative criteria here, except the parking variance, even though the Board Professional indicated the variance may never be needed because of the offsetting of the parking times. Other than this, he feels this is an excellent use for the Zone and asks the Board to grant this application and allow this Applicant to entertain her Dance School at this location.

Mr. Newman (Chairman) asks Mr. Van Den Kooy, (Board Planner) something he should have asked earlier. Does he agree this use is something that is particularly suitable to the site and is there any negative criteria he sees that outweigh the positive criteria and does he agree with the

testimony that has been heard, that it is indeed an appropriate use for the area seeing the turnover from Industrial to different uses in this area.

Mr. Van Den Kooy (Board Planner) states he would say overall he does think it is an appropriate use for the area. He has seen multiple applications come before this Board for various uses that were not permitted within the I-1 & I-2 Zones. Retro Fitness being one, the Dialysis Center is another use that was referenced. He has seen outside of Fair Lawn, several different Industrial Parks, one in Eatontown, one in Lakewood, N.J. that have gone for use variances for other uses and have been granted.

Mr. Van Den Kooy notes the special reasons that were put on record were adequate and feels the negative criteria of all were covered..

Mr. Seibel (Board Member) asks if this will be a long term lease.

Discussion.

Mr. Zalarick (Applicant's Attorney) asks for a few minutes while he reviews the options that were given...

Mr. Zalarick notes upon review, a 5 year lease, which is standard with 2 options of 5 and they are trying to get 3 options of 5. This is not negotiated as of yet. Right now they have a 5year with two options of 5 more.

Mr. Newman (Chairman) asks for a motion.

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

**VOTE: Mr. Seibel, Mr. Sacchinelli, Mr. Lowenstein, Mr. Racenstein, Mr. Naveh  
& Mr. Newman, Yes.**

**Motion carries.**

**APPLICATION APPROVED.**

Mr. Newman moves to Order of Business:

**Memorialized Resolutions:**

1. Application 2014-01, Rici Realty,  
8-20 Cedar Street, Block 5820, Lot 9, Zone R-1-3  
Change in use. Currently a non-conforming use. Proposed to change use to a  
Non-conforming Multi-Family use. Requires a D-1 Use variance as per Section  
125-57.D.(d)[1] Amendment to site and parking requires a minor site plan variance per  
Section 125-65. Existing building to remain and be converted into 4 family Residential  
Units.

Mr. Seibel makes a motion to approve this Resolution and Mr. Naveh seconds this motion.

**VOTE: All Present: AYE:**

**Vouchers:**

1. Winnie Banta Hetherington Basalian & Kahn in the amount of \$1,045.00 for Legal  
Services rendered for Rici Realty.

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

**VOTE: All Present – AYE**

2. Winnie Banta Hetherington Basalian & Kahn in the amount of \$816.66 for Legal services  
rendered for the month of August, 2014.

Mr. Seibel makes a motion to approve this voucher and Mr. Lowenstein seconds the motion.

**VOTE: All Present: AYE**

3. Winnie Banta Hetherington Basalian & Kahn in the amount of \$816.66 for Legal services  
rendered for the month of September, 2014.

Mr. Seibel makes a motion to approve this voucher and Mr. Naveh seconds the motion.

**VOTE: All Present – AYE**

**Minutes:**

Mr. Lowenstein makes a motion to approve the minutes of July 21, 2014 and Mr. Racenstein seconds the motion.

**VOTE: All Present: AYE**

Mr. Seibel makes a motion to approve the minutes of August 4, 2014 and Mr. Pohlman seconds the motion.

**VOTE: All Present: AYE**

Mr. Seibel makes a motion to approve the minutes of August 25, 2014 and Mr. Racenstein seconds the motion.

**Adjourn:**

Mr. Seibel made a motion to adjourn this meeting and Mr. Lowenstein seconded the motion.

**TIME: 10:30 P.M.**

**VOTE: All Present - AYE.**

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk



