

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting Minutes  
Of APRIL 27, 2015**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on April 27, 2015

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, Ms. Baratta, Ms. Perchuk,  
Mr. Lowenstein, Mr. Naveh & Mr. Newman  
(Mr. Blecher arrived 7:15pm)

Absent: Mr. Puzio, Mr. Racenstein, Mr. Pohlman, Mr. Zharnest

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

Board Professional in Attendance: Mr. Peter Van Den Kooy (Licensed Planner)

Mr. Newman swears in Ms. Jeanne Baratta as a Newly Elected Board Member.

Mr. Newman explains he will be doing changes in the order of Applications due to the fact he must leave early and D-variances will be put 1<sup>st</sup> due to the amount of Board Members necessary for D-variances and makes the following announcements:

**Commercial Applications Carried:**

1. Application#2014-10, Barrister Land Development Corporation, 41-25 & 41-29 Dunkerhook Road will be carried to a Special Meeting on April 30, 2015, no testimony will be heard.
2. Application#2014-15, Varvara Property LLC/Oceanos Oyster Bar & Sea Grill, 2-27 Saddle River Road, will be carried to a Special Meeting on May 4, 2015. No testimony will be heard.
3. Application#2015-04, PSE&G, 17-01 Nevins Road, will be carried to a Special Meeting on May 14, 2015. No testimony to be heard.
4. Application#2015-05, PSE&G&Interior Renovations Services, LLC.,4-24 Banta Place will be carried to the regular meeting of May 18, 2015. No Testimony to be heard.

**Residential Carried:**

1. Application #2015-06, Leonid & Melinda Ritenban,  
3-11 Hartley Place, Block 3322, Lot 31&32, Zone R-1-3  
Proposed addition of a family apartment would create a two family dwelling  
in the R-1-3 Zone where only one family dwellings are permitted as per Section  
125-17. D-1 variance required as per Section 125-57.D.(1)(d)[1] FAR of 39%  
where 37% is permitted as per Section 125-12 Schedule of area yard and building  
requirements. Would require a D-4 FAR variance as per Section 1257.D.(1)(d)[1]

Mr. Andrew Kohut (Applicant's Attorney) steps forward and reviews previous testimony from the meeting of March 3, 2015. Reiterates his clients have no intention to use this as a two family, this is solely being done to accommodate the Mother who will be living with them.

Mr. Kohut reviews the application and wanted the Board's interpretation of the Zoning Code/Ordinance...reads definition of detached single family versus a two family dwelling.

Mr. Newman swears in Professionals: Liza Phillips (Licensed Planner for the Applicant)  
Peter Van Den Kooy (Licensed Board Planner)

Ms. Phillips reviews proposal of Site Plan with the Board. States there will be no separate door, no separate access. Reviews Master Plan, noting Multi-Generational housing and speaks to the interpretation of multi-generational housing....

Mr. Van Den Kooy (Board Planner) speaks to the Master Plan and in his opinion sees the proposal as a two family.

Ms. Peck (Assistant Zoning Officer) reviews the definition of the Ordinance.

Classification by Board Members is necessary and conditions and restrictions may be necessary.

Mr. Rosenberg (Board Attorney) refers to Case #100NJ46. No definition of Mother/Daughter in the Code. Is a use variance required?

Discussion.....

Mr. Kohut requests an interpretation of the Ordinance. Speaks to the definition of single family homes...can Multi-generational housing can be incorporated into single family dwellings..

Discussion continues.

Mr. Newman swears in: Steven Giampinto (Licensed Architect for the Applicant)

Mr. Newman certifies Mr. Giampinto as a Professional in the field of Architecture with no objections from the Board.

Mr. Giampinto reviews proposal with Board Members. Describes and details interior of home...

Discussion on the FAR variance, question is asked if addition of Family room is creating the FAR.

Mr. Newman (Chairman) notes the ownership can change in the future but a variance approval runs with the land. Notes his concern with this proposal...

Discussion continues...review of design and changes that can be done.  
Discussion on conditions that may have to be implemented...  
Applicant has no issues with conditions being placed.

Discussion continues on possibly a Deed Restriction being added.

Mr. Newman reviews interpretation that is requested from the Board.

A discussion amongst the Board Members regarding interpretation of a one family versus a two family takes place.

Mr. Newman would like a vote as to whether or not the Board Members feel the proposal is a two family dwelling or a single family based on the Ordinance.

A Yes vote if believed to be a two family.  
A No vote if believed to be a single family.

Roll Call: Mr. Seibel, Ms. Perchuk, Mr. Lowenstein, Ms. Baratta, **NO**.  
Mr. Blecher, Mr. Naveh & Mr. Newman, **YES**.

Determined 4 to 3 by Board vote as a Single Family. Not a two family.

Move to FAR variance requested.

Ms. Phillips (Applicant's Planner) steps forward to speak to the FAR variance. Refers to the Master Plan and reviews the positive and negative criteria. Noting in ending her testimony the proposal has no detriment to the Public Good, etc...

No questions from the Board Professional. Mr. Van Den Kooy states the request for the FAR is the minimis, etc...

Discussion continues....

Mr. Newman opens to residents living within 200ft. for questions of the witness. Seeing none, Mr. Newman closes this portion.

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

Discussion on amendments or conditions to be added to the proposal....

Power Failure/Recorder issues. Missing small portion of testimony and discussion...

Mr. Newman asks for a motion.

Mr. Seibel makes a motion to approve the 1<sup>st</sup> portion of the application with the following conditions:

1. Create Open Hall plan.
2. Removal of the wall and accordion door to Laundry room.
3. Removal of the door and frame of Security door
4. Closet area within hallway removed.
5. Remove Entry/Exit door.
6. Remove rear door in Family room.
7. Deed Restriction be placed & documented with Tax Department as one family dwelling, to be used by family only.

Ms. Baratta seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Mr. Lowenstein, Ms. Baratta, Mr. Naveh & Mr. Newman, **YES.**

**Motion carries.**

**APPLICATION APPROVED WITH CONDITIONS.**

**New Residential:**

1. Application#2015-10, Rosaling Gundling  
63 Heights Avenue, Block 6905, Lot 30, Zone R-1-3  
Proposed additions and renovations of a non-conforming structure requires A D-variance as per Section 125-D(1)(d)[1] Ordinance 125-32 provides for expansion of a non-conforming structure provided the requirements are met. Exemption 125-32.C. 4 requires the existing non-conforming front yard setback be more than 50% of the requirement. R-1-3 zone requires a 25' front yard setback. Proposed expansion requires a variance to maintain the existing front yard setback of 9.95' where 25' is required as per Section 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is proof of service.

Mr. Newman swears in: Rosaling Gundling (Applicant)  
63 Heights Avenue  
Fair Lawn, N.J.

Christopher Stone (Architect)  
Middletown, N.J.

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

Mr. Stone explains why they are here this evening. Proposal for addition to home requires a D-2 variance-front yard setback does not meet the requirements.

Mr. Stone reviews Board Exhibit- A series of Photos of the Applicant's home and surrounding neighborhood.

Discussion....

Few questions from Board Members...

Mr. Lowenstein makes a motion to approve the application.

Mr. Seibel seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Mr. Lowenstein, Ms. Baratta,  
Mr. Naveh & Mr. Newman, **YES.**

**Motion Carries.**

**APPLICATION APPROVED.**

2. Application #2015-12, Steven & Elianna Alexander  
36-11 Berdan Avenue, Block 2618, Lot 20, Zone R-1-2  
Proposed 2<sup>nd</sup> floor addition would maintain the existing side yard setback of 10.8' and 11.2' where 12' is required as per Section 125-12 Schedule of area yard and building requirements. Proposed 2<sup>nd</sup> story addition would have a height of 35.5' where 30' is permitted. Requires a D-6 Height variance as per Section 125-57.D.(1)(d)[1]

Fees have been paid and there is proof of service.

Mr. Lowenstein (Board Member) recuses himself from this application.

Mr. Karas (Applicant's Attorney) after speaking with his clients, asks the Board due to the recusal of Mr. Lowenstein and the fact this is a D-variance and requires an approval of 5 out of 6 Board Members; the Applicant would like to carry the application to the next meeting of May 18<sup>th</sup>, 2015 in the hopes of more Board Members in attendance.

**Request granted.**

**APPLICATION CARRIED TO THE MEETING OF MAY 18<sup>th</sup>, 2015  
NO FURTHER NOTICE REQUIRED.**

Let the record show, Mr. Newman (Chairman) has left the podium for the evening (9:15) and Mr. Lowenstein (Board Secretary) is now Acting Chairman.

3. Application #2015-08, Brandon Schmidt.  
9-10 Burbank Street, Block 4523, Lot 4, Zone R-1-3  
Proposed new covered rear patio and covered entrance would increase the building coverage from 26.21% to 31.10% where 25% is permitted. Would increase the impervious coverage from 42.25% to 51.66% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is proof of Service.

Mr. Lowenstein swears in: Mr. Brandon Schmidt (Applicant)  
9-10 Burbank Street,  
Fair Lawn, N.J.

Mr. Schmidt begins his testimony and explains why he is here this evening...  
Notes he made an error in calculations and dropped the impervious coverage to 49.3% and not the 51.66% as noted in the denial.

Speaks to a Drainage System installation (A Storm Water Collection Chamber) & reviews report submitted by GB Engineers, a Professional in Garfield.  
Professional could not make it this evening.

Discussion....

Mr. Lowenstein (Board Member) has issues with Professional not being in attendance regarding questions he may have in understanding this Drainage System.

Discussion on condition of approval being based on the Board Engineer, Mr. Azzolina's review of Report...

No further questions from the Board.

Mr. Lowenstein opens to residents within 200ft. for questions of the Applicant.  
Seeing none,

Mr. Lowenstein opens to the General Public for questions. Seeing none,  
Mr. Lowenstein closes this portion.

Mr. Seibel makes a motion to approve this application contingent on a review by the Board Engineer, Paul Azzolina of the report submitted by GB Engineers on Storm Water Drainage System to be installed as proposed.

Ms. Perchuk seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Ms. Baratta, Mr. Naveh  
& Mr. Lowenstein, **YES.**

**Motion Carries.**  
**APPLICATION APPROVED.**

4. Application#2015-09, David Bostock,  
1 Burlington Place, Block 3713, Lot 7, Zone R-1-3  
Corner Property. Proposed Air Conditioner Condenser would be located 14.90'  
from Burlington Place and would be located 31.60' from Howard Avenue where  
35' is required for Accessory Building Structures or uses as per Section 125-33(2)  
Accessory Building Structures and uses.

Fees have been paid and there is proof of service.

Mr. Lowenstein swears in: David Bostock & Cathy Bostock (Applicants)

Mr. Bostock explains the reason they are here this evening. He points out the issue to the Board regarding the location of the Air Conditioner Condenser and why the placement needs to be where it is proposed.

No questions from the Board.

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

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

Mr. Seibel makes a motion to approve the application.  
Ms. Baratta seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Ms. Baratta,  
Mr. Naveh & Mr. Lowenstein, **YES.**

**Motion carries.**  
**APPLICATION APPROVED.**

5. Application #2015-13, Wade Klein  
5 Barry Place, Block 3802, Lot 23, Zone R-1-3  
Proposed placement of New Air Conditioning Condenser would have a 30' Front  
yard setback where 35' is required in the R-1-3 Zone as per Section 125-33(2)  
Accessory Building Structures and uses.

Fees have been paid and there is proof of service.

Mr. Lowenstein swears in: Mr. Wade Klein (Applicant)  
5 Barry Place,  
Fair Lawn, N.J.

Mr. Klein begins his testimony explaining the reason he is here this evening. He speaks to the new location of the proposed Air Conditioning Condenser, stating the newly proposed location is 30' setback rather than the 35' requirement. He explains to the Board Members the new location would be more hidden and unseen from street. It would be hidden with bushes....

No questions from the Board.

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

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

Ms. Baratta makes a motion to approve the application.  
Mr. Blecher seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Ms. Baratta,  
Mr. Naveh & Mr. Lowenstein, **YES.**

**Motion Carries.**  
**APPLICATION APPROVED.**

6. Application#2015-11, George Sabsovich,  
38-14 Allwood Place, Block 2404, Lot 52, Zone R-1-2  
Pergola & Patio would have a side yard setback of 3' where 4' is required. Hot Tub would have a side yard setback of 8' where 12' is required as per Section 125-12 Schedule of area yard and building requirements. Pergola would have a front yard setback of 30.3' and Hot tub would have a front yard setback of 34' where 40' is required as per Section 125-33(2) Accessory Building Structures and uses.

Fees have been paid and there is proof of service.

Mr. Lowenstein swears in: George Sabsovich (Applicant)  
38-14 Allwood Place  
Fair Lawn, N.J.

Mr. Sabsovich begins his testimony on the reason he is here this evening. Explains his proposal before the Board this evening. Setbacks do not meet the requirements. He recently purchased this home with the existing hot tub...

Report submitted by Glen Stubaas (Certified Architect) accepted as part of application. Mr. Stubaas could not be in attendance this evening.

Mr. Sabsovich details the proposal of Pergola, Patio & reiterates the Hot Tub was a pre-existing condition when the home was purchased.

Ms. Peck (Assistant Zoning Officer) is sworn in for testimony regarding application.

Ms. Peck explains during the CO inspection, Hot Tub was noted, Conditional CO was granted to the applicant until decision is determined by Board. If the Board denies the variance, Hot Tub will have to be removed.

Discussion on procedure of Building Department Code requirement....

No questions from the Board.

Mr. Lowenstein opens to Residents living within 200ft. of the Applicant for questions or comments, seeing none,

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

Mr. Seibel makes a motion to approve the application,  
Mr. Naveh seconds the motion.

**Roll Call:** Mr. Seibel, Mr. Blecher, Mr. Perchuk, Ms. Baratta,  
Mr. Naveh & Mr. Lowenstein, **YES.**

**Motion Carries.**  
**APPLICATON APPROVED.**

Order of Business:

**Resolutions:**

1. Application #2015-27, Bhupinder Singh, 0-85 26th Street, Block 3214.01, Lot 22, Zone R-13– Proposed Addition- Approved.

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

VOTE: All Present – AYE.

**Vouchers:**

1. Winnie Banta Hetherington Basralian & Kahn in the amount of \$816.66 for Legal services rendered for the month of April 27, 2015 Meeting.

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

VOTE: All Present – AYE.

**Minutes:**

1. Mr. Seibel made a motion to approve the minutes for the December 15, 2014 meeting with amendment to be made and Ms. Pechuk seconded the motion.

VOTE: All Present – AYE

**Correspondence:**

Correspondence is discussed from French & Parrello Associates regarding new replacement for the Board Traffic Engineer, Mark Kataryniak. Mr. Kataryniak's replacement will be Frank Miskovich, PE, CME.

**Annual Report:**

Mr. Seibel made a motion to adopt the Annual Report and Mr. Blecher seconded the motion.

VOTE: All Present – AYE.

**Adjourn:**

Mr. Blecher made a motion to adjourn the meeting and Ms. Baratta seconded the motion.

TIME: 10:00 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk