

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
Of September 28, 2015**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular meeting held on September 28, 2015

Chairman Richard Seibel 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. Blecher, Ms. Baratta, Ms. Perchuk, Mr. Lowenstein,
Mr. Naveh & Mr. Seibel

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

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

All Board Professionals in Attendance: Board Engineer: Paul Azzolina
Board Planner: Peter Van Den Kooy
Board Traffic Engineer: Frank Miskovich

Pledge of Allegiance is cited.

Mr. Seibel reads correspondence and announces the carrying of the following application.

Application #2105-27, VR II, 20-19 Fair Lawn Avenue, LLC.
20-19 Fair Lawn Avenue, Block 4701.01, Lot 1, Zone B-1

**Application carried to the meeting of October 26, 2015. No Testimony heard.
No further Notice required.**

Residential New Business:

1. Application #2015-28, Robert & Mary Walsh,
328 Howard Avenue, Block 3710, Lot 10, Zone R-1-3
A Corner Property. Proposed Air Conditioner Unit would have a 10' setback from Bancroft Place where 35' is required as per Section 125-33 Accessory Buildings, Structures and uses.

Mr. Seibel swears in: Ms. Maryanne Walsh (Applicant)
328 Howard Ave,
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Ms. Walsh explains why she is here this evening before the Board. She would like to put an Air Conditioner/Condenser in the location as cited on the survey, and because she is a corner property, the setbacks do not meet the requirement.

Mr. Seibel & Ms. Walsh discuss setback locations.

Mr. Seibel (Chairman) asks if the Radburn Association has approved this plan.

Ms. Walsh testifies they have.

Mr. Lowenstein (Board Member) clarifies the calculations of the setbacks and also questions proposed landscaping/buffer.

Ms. Walsh testifies she plans to do this in the spring.

No further questions from Board Members.

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

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

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

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

Motion Carries.

Applications Approved.

2. Application #2015-29, Smith Sebastian & Marguerite St. John,
7-10 River Road, Block 5507, Lot 7, Zone R-2.
Proposed rear one story addition would increase the building coverage from 30.64% to 32.64% where 25% is permitted. Removal of patio would decrease the impervious coverage from 45.34% to 44.70% where 35% is permitted. Would maintain existing side yard setback of 1.5' where 10' is required as per Section 125-12 Schedule of area yard and building requirements. FAR would increase from 47% to 49%. D-4 variance is required as per Section 125-57.D. (1)(d)[1]

Mr. Seibel swears in: Mr. Smith Sabastian
7-10 River Road
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Before proceeding, Mr. Rosenberg (Board Attorney) explains to Mr. Sebastian there are Six (6) voting members and because he is asking for a D-4 variance, he will need five (5) affirmative votes out of the 6. Explains the options he has.

Mr. Sebastian chooses to move forward.

Mr. Rosenberg proceeds to explain, if the application is denied, he will have to come back with a substantially different application....

Mr. Sebastian begins his testimony. He explains he would like to convert the portion of the patio/sunroom in the back of the house into a bathroom. His Father-in-Law recently moved in and has a heart condition and cannot climb the stairs to the 2nd floor where the current bathroom is located.

Discussion on Lot size...removal of patio to reduce the impervious coverage and staying within the house line.

Board Members clarify the location, removal of the patio percentage and the pictures submitted with the application.

Discussion continues...

No further questions from the Board.

Mr. Seibel opens to Residents within 200ft. of the Applicant for questions. Seeing none, Mr. Seibel closes this portion.

Mr. Seibel opens to the General Public for questions of the Applicant. Seeing none, Mr. Seibel closes this portion and asks for a motion.

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

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

Motion Carries.
Applications Approved.

Commercial Business Carried:

1. Application #2015-20, MJRL Real Estate Holdings,
22-05 Maple Avenue, Block 5826, Lot 3, Zone OBS-1
Proposal to create an apartment in the basement and maintain the existing office on the 1st floor. This would create a residence which is not permitted and would require a D-1 variance as per Section 125-57.D. (1)(d)[1] Minor changes to the site require Minor site plan approval as per Section 125-65. 2. Application#2015-26, Fitnaholics Unanimous, 15-01 Pollitt Drive, Block 4802, Lots 3 & 5, Zone I-2 Proposed Fitness Studio is not a permitted use in the I-2 Zone. D-1 Variance required as per Section 125-57(1)(d)[1]

Mr. Darren T. DiBiasi (Attorney for the Applicant) steps forward from the Office of DiBiasi & Rinaldi, Nutley, N.J.

Fees have been paid and there is proof of service.

Mr. Seibel swears in Board Professionals: Board Engineer: Paul Azzolina
Board Planner: Peter Van Den Kooy
Board Traffic Engineer: Frank Miskovich

Mr. DiBiasi proceeds to review the application and what his client is looking to do. He is seeking an approval for the conversion of the lower floor at the proposed location to a two bedroom apartment, noting there will be no impact to the existing building. The first floor will remain an office and they will be staying within the footprint of the building.

Mr. DiBiasi would like to bring forth his 1st witness, Jacob Solomon, their Architect who designed the plans..

Mr. Seibel swears in: Mr. Jacob Solomon
Fair Lawn, N.J.

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

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

Discussion...

Mr. Rosenberg (Board Attorney) confers with Mr. DiBiasi (Attorney for the Applicant) regarding his client's options being there will only be five (5) Voting Members.

Mr. DiBiasi speaks with his client momentarily and states his client chooses to move forward with the application.

Mr. Solomon (Architect) introduces Exhibit A-1, Site Plan.

Mr. Solomon reviews the Site Plan with the Board Members testifying the first floor will remain Office space for an Accountant who presently occupies the space. Notes the lower floor has been vacant for years. Explains the basement exits proposed. There will be new Egress stairway with new sidewalks. The apartment will be 100% Code compliant.

Mr. Solomon refers to Sheet 2 of Exhibit A1, reviews it with Board members. Reiterates the existing footprint will not be changed. Discusses the parking lot, striping, the existing sign will be changed to reflect only one tenant.

Question is asked regarding the proposed height of the ceiling in the lower floor.

Mr. Solomon explains currently there is a dropped ceiling. He will remove the dropped ceiling and will create a ceiling height of approximately 7ft.

Discussion on the new stairwell...Mr. Solomon explains safety reasons.

Board Members question the history of the existing downstairs.
It was a legal office but has not been occupied for quite some time.

Mr. Azzolina (Board Engineer) would like clarification on grade of basement window and if it follows regulations. Refers to his Report submitted....

Mr. Azzolina referencing site related issues. Speaks to Traffic signage and asks Mr. Solomon to clarify traffic signage upgrades to current standards. Notes parking lot is in poor condition and needs to be updated and restriped.

Discussion... Applicant agrees to the recommendations so noted.

Mr. Azzolina speaks to lighting. Notes the lighting that exists is acceptable but would like to follow up and inspect the property to be sure lighting is sufficient once work is completed.

Applicant also agrees to this recommendation & condition if needed.

Mr. Van Den Kooy (Board Planner) questions shared parking with Tenant.
Mr. Solomon addresses this question. No issues. Less Impact all the way around...

Mr. Miskovich (Board Traffic Engineer) does concur with this. A Residential use would be must less intensive and have less impact both in traffic and in parking.

Discussion...

Mr. Seibel questions the sprinkler system installation.

Mr. Solomon notes it will be 100% Fire Code Compliant.

Discussion begins regarding mixed use properties....questions regarding the normalcy of a Commercial use being on ground level.

Discussion continues....

Questions arise regarding basement apartments being safe.

Safety Issues are addressed.

No further questions from Board Members.

Mr. Seibel opens to Residents within 200ft. of the applicant for questions of Mr. Solomon. Seeing none, Mr. Seibel closes this portion.

Mr. Seibel opens to the General Public for questions of the Witness. Seeing none, Mr. Seibel closes this portion and asks for a motion.

Mr. DiBiasi (Attorney for the Applicant) calls his 2nd Witness forward.

Mr. Seibel swears in: Mr. Paul Bauman (Applicant's Planner)
North Caldwell, N.J.

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

Mr. DiBiasi begins his direct cross.

Mr. Bauman provides the Board with his professional opinion of the site stating it complies with the Master Plan, referencing mixed use recommendation. Notes it is a re-use of the building-office use on the ground level and the lower floor being converted to an apartment use. It provides a variety/mixed use as stated in the Master Plan.

Mr. Bauman reviews the positive criteria, the redevelopment plan. Feels it is particularly suited for the area. There is no impact to the surrounding areas and there is sufficient parking. The use is compatible with the surrounding neighborhood, both business and residential uses.

Mr. Bauman notes the conversion also supports the Master Plan. Notes the building will be in compliance with all Safety and Fire codes and will complement the character of the surrounding neighborhood.

Testimony continues....1840sf of basement which previously was used for Office space would increase the impact of parking, converting this to a Residential use will have less

impact than an office because there will be no conflict of residential or office parking needs.

Mr. Bauman reviews the negative and in summary states there is no substantial detriment to the public good...explains and reiterates again there will be sufficient parking and no impact because the uses will not conflict with one another. There is no detriment to the Master Plan or the Zoning Plan and believes the Board should grant the variance believing the positive outweighs the negative.

Mr. Seibel defers to the Board Professionals....

Mr. Van Den Kooy (Board Planner) believes they have addressed all the issues and agrees with Mr. Bauman the conversion will bring the building up to Code.

Mr. Miskovich (Board Traffic Engineer) also believes the conversion will make the site less intense regarding Traffic & Parking.

Discussion continues regarding the safety of Basement Apartments.

Conditions being part of an approval and added to the Resolutions are discussed regarding the number of Occupants allowed.

Discussion continues...number of Bedrooms being restricted to 2 bedrooms only.

Mr. DiBiasi (Attorney for the Applicant) notes whatever conditions the Board would like to apply to an approval are agreed to by the Applicant.

Heavy discussion continues on the purpose of the Master Plan.

Mr. Azzolina (Board Engineer) recommends ADA Parking spaces. At least one of the 10 spaces should be made ADA compliant.

Ms. Perchuk (Board Member) questions the window locations.

Jacob Solomon (Applicant's Architect) is asked to come back up to the podium to testify and clarify locations.

Mr. Solomon clarifies the locations and notes no cars in the parking lot will block the Ingress/Egress windows.

No further questions from Board Members.

Mr. Seibel opens to Residents living within 200ft. of the Applicant for questions of this witness. Seeing none,

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

Mr. DiBiasi would like to bring up his last witness, a neighbor who resides next to the site.

Mr. Seibel swears in: Pete Adely
7 Fern Street
Fair Lawn, N.J.

Mr. Adely would just like to express he has no issues with the property being upgraded and brought up to code. He feels this is a positive improvement.

Mr. Adely is questioned on the mixed use offices in surrounding areas.
Mr. Adely addresses this question and states there are a number of mixed uses in the area.

Discussion continues...

No further questions from Board Members.

Mr. Seibel opens to Residents living within 200ft. of the Applicant for questions of this witness. Seeing none,

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

Mr. DiBiasi summarizes the application speaking of the positives of this conversion...confident in the issues of safety, bringing the location up to Code, etc..fits in with the character of the neighborhood and the Master Plan...

Mr. Seibel asks for a motion. (5 Affirmative votes necessary for approval)

Discussion of the positive and negative aspects of the application by Board Members...

Ms. Baratta makes a motion to approve the application with the following conditions.

1. Upgrade to sign
2. Upgrade & restriping of the parking lot.
3. Will be 100% Fire Code Compliant
4. Board Engineer to follow up on lighting for recommendations.

Mr. Blecher seconds the motion.

VOTE: Mr. Blecher, Ms. Baratta, Ms. Perchuk, Mr. Naveh & Mr. Seibel, **YES.**

Motion Carries.
Applications Approved.

RECESS:

Mr. Seibel reopens Meeting with Mr. Lowensein rejoining the Dias.

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

Commercial New Business:

1. Application#2015-26, Fitnaholics Unanimous,
15-01 Pollitt Drive, Block 4802, Lots 3 & 5, Zone I-2
Proposed Fitness Studio is not a permitted use in the I-2 Zone
D-1 Variance required as per Section 125-57(1)(d)[1]

Mr. Andrew Kohut (Attorney for the Applicant) of Wells, Jaworski & Liebman in Paramus, N.J. steps forward.

Fees have been paid and there is proof of Service.

Mr. Kohut opens his testimony explaining to the Board Members this application is not for a Gym, an open Gym where people come and go all day, this is a place where everything is scheduled. Instructional Classes where hours of operations will be 5:30am-10:30pm. Speaks to Peak Hours and off hours...

Mr. Kohut speaks to the prior parking variance approved...
Discussion...

Mr. Kohut has several witnesses this evening that will testify and would like (2) two to come forward.

Mr. Seibel (Chairman) swears in Board Professionals.

Frank Miskovich (Board Traffic Engineer)
Paul Azzolina (Board Engineer)
Peter Van Den Kooy (Board Planner)

Mr. Seibel swears in: Mr. Jarmel Kizel (Applicant's Architect)
42 Okner Pkwy
Livingston, N.J.

Mr. Seibel swears in: Ms. Anna Alon (Owner of Fitnaholics)
78 Oakhill Road
Hillsdale, N.J.

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

Mr. Kizel introduces the proposed Plan.

Exhibit A-1/ Site Plan

Mr. Kizel reviews the proposed plan with Board Members. Testifies it is a small group training operation with scheduled appointments. Exercises include aerial yoga, etc.. No more than 3 classes go on simultaneously...

Ms. Anna Alon interjects testimony to explain to the Board everything is scheduled and supervised. They specialize in small group training. Describes the equipment used. There is no Gym equipment....Treadmills, etc...

Currently there are 75 members & one (1) Instructor to 6 Students.
She caters to specific clientele in Fair Lawn.

Discussion on hours of operation...
Two (2) Classes being the maximum.
Typical Day would be 6-12 classes per day.

Questions from Board Members regarding the Operations and youngest age accepted.
Safety questions are asked. Discussion on drop off and leave policy.

Clarification on location of drop offs.
Birthday Parties are discussed.

Discussions continue... Questions regarding food for sale/vending machines, etc., is allowed?

Ms. Alon testifies there will be no food/they do however, give education on food.

No further questions from Board Members.
No questions from Board Professionals.

Mr. Seibel opens to Residents living within 200ft. of the Applicant for questions of these witnesses. Seeing none,

Mr. Seibel opens to the General Public for questions of these witnesses. Seeing none,
Mr. Seibel closes this portion.

Mr. Kohut (Attorney for the Applicant) calls his next witness.

Mr. Seibel swears in: Mr. Lee Klein (Applicant's Traffic Engineer)

Mr. Seibel certifies Mr. Klein as an Expert in the Field of Traffic Engineering with no objections from the Board.

Mr. Klein introduces Exhibit A2-

Exhibit A2- Traffic Report.

Mr. Klein begins his review of his report, the review & study of the parking operations at the site and discusses his findings and the amount of cars at peak hours of operations.

Findings: maximum amount of cars were 14 at the site with no issues with occupancy of spaces...

Testimony continues...

Board Members question parking and Mr. Klein reiterates the maximum amount of spaces used at peak hours was 14 spaces.

Mr. Miskovich (Board Traffic Engineer) discusses the 2008 parking variance and what it was premised on...warehouse/medical office/etc...

Discussion continues...

Question regarding Birthday Parties and when they would take place is asked?

Birthday parties would only be held on Saturday & Sunday and the Applicant would agree to this condition.

No further questions from Board Members.
No questions from Board Professionals.

Mr. Seibel opens to Residents living within 200ft. of the Applicant for questions of this witness. Seeing none,

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

Mr. Kohut calls his next witness.

Mr. Seibel swears in: Mr. William Hamilton (Applicant's Planner)
54 Orso Road
Cedar Hills, N.J.

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

Mr. Hamilton reviews the site plan with Board Members. Introduces Exhibit A3.

Exhibit A-3-dated 9/28/15 Aerial Photo of property and surrounding neighborhood.

Mr. Hamilton walks the Board through the Exhibit and reviews the proposal. Discusses existing tenants in the area, stating all activity will be held inside, there will be no outside activity, no impact to the building and has sufficient lighting...

Mr. Hamilton introduces 2nd Exhibit, marked as Exhibit A4.

Exhibit A4- A reproduction of Sheet 3 of 3 of the Site plan.

Testimony continues...stating there is accessible parking for the use. Reviewing previous approvals at site...speaks to special reasons for the granting of the variances.

Mr. Hamilton refers to the Master Plan and reiterates the site is appropriate and well suited for the use. He reviews the negative criteria noting there is no impact to the Public Good, promotes the Master Plan and the proposal substantially outweighs the negative impact.

Discussion and clarification from Board Members...

Impose a condition regarding the follow up review by Mr. Azzolina (Board Engineer) to review lighting of the location to see if it would be sufficient enough for the site.

Signage is discussed and agreed to by the Applicant.

No further questions from Board Members.
No questions from Board Professionals.

Mr. Seibel opens to Residents living within 200ft. of the Applicant for questions of this witness. Seeing none,

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

Discussion among the Board Members takes place regarding Safety issues and State Regulations.

Ms. Alon (Owner & Applicant) is brought back up to the Podium to testify regarding Safety questions.

Ms. Alon testifies all her Staff is certified by the State. Safety is her main concern. Her instructors are fully certified and fully insured.

Mr. Kohut (Attorney for the Applicant) summarizes the application.

Mr. Seibel seeing no further questions asks for a motion.

Mr. Lowenstein makes a motion to approve the application with condition.

1. Lighting Plan will be reviewed and followed up by Mr. Azzolina (Board Engineer)

Ms. Perchuk seconds the motion.

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

Motion carries.

Application Approved.

Memorialized Resolutions:

1. Application #2015-25, Olieri Investments/Ron Garner
27-01 Urban Place, Block 3415, Lot 5, Zone R-1-3-Approved

Mr. Lowenstein made a motion to accept this resolution and Ms. Perchuk seconded the motion.

VOTE: All Present – **AYE.**

2. Application #2015-05, Interior Renovations, LLC.
4-24 Banta Place, Block 3411, Lot 1,-Approved

Mr. Naveh made a motion to accept this resolution and Ms. Baratta 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 September 28, 2015 Meeting.

Ms. Baratta made a motion to accept this voucher and Ms. Perchuk seconded the motion.

VOTE: All Present – **AYE.**

2. Winnie Banta Hetherington Basralian & Kahn in the amount of \$855.00 for Legal services rendered for the Special Meeting of September 24, 2015.

Mr. made a motion to accept this voucher and Ms. Perchuk seconded the motion.

VOTE: All Present – **AYE.**

Minutes:

1. Mr. Lowenstein made a motion to approve the minutes for April 30, 2015, May 4, May 14 & May 18, 2015 and Ms. Baratta second the motion.

VOTE: All Present – **AYE**

Adjourn:

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

TIME: 10:15 P.M.

VOTE: All Present - **AYE.**

Respectfully submitted,

Cathy Bozza
Assistant to Zoning Department