

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Meeting Minutes  
Of December 21, 2015**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment Regular meeting held on December 21, 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. Racenstein,  
Mr. Puzio, & Mr. Seibel

Absent: Mr. Lowenstein, Mr. Pohlman, Mr. Naveh & Mr. Zharnest

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

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

Pledge of Allegiance is cited and dedicated to the Members of the Military Forces.

**Residential New Business:**

1. Application #2015-39, Stephen Craffen & Clarence Sikorski,  
0-32 Saddle River Road, Block 1103, Lot 13, Zone R-1-3.  
Property is located in the R-1-3 Zone. Applicant is requesting a Zoning  
Certification for a pre-existing non-conforming Two-family dwelling.

Fees have been paid and there is Proof of Service.

Mr. Brad Kaplan, Attorney for the Applicant from Kaplan Law Group, PC. Short Hills,  
N.J. steps forward to speak on behalf of his Client, Mr. Stephen Craffen.

Mr. Seibel swears in: Stephen Craffen (Applicant)  
8 Briscoe Chase  
Ringwood, N.J.

Mr. Kaplan begins his testimony explaining to the Board his client is here this evening seeking a zoning certification for a pre-existing non-conforming two-family multi family dwelling which has been in existence since the 1950's, well before Mr. Craffen purchased the home. Mr. Craffen purchased the home with his wife in 1983 and has since operated it as a non-conforming two family.

Mr. Kaplan explains the burden of proof is to show the house has been used as a pre-existing two family since the 1950's.

Brian Blecher (Board Member) questions the term used by Mr. Kaplan when he stated; Multifamily, and can he please clarify?

Discussion...

Mr. Kaplan clarifies it is a two family.

Mr. Rosenberg (Board Attorney) speaks to the burden of proof.

Mr. Kaplan calls his 1<sup>st</sup> witness. Ms. Amy Hummerstone, a Licensed Architect.

Mr. Seibel swears in: Ms. Amy Hummerstone  
14 Brearly Crescent  
Fair Lawn, N.J.

Mr. Seibel certifies Ms. Hummerstone as a Licensed Architect in the Field of Architecture with no objections from the Board.

Ms. Hummerstone speaks to the submitted report to determine if the house it was in fact a Multi-family. Ms. Hummerstone referenced the walls between the two dwellings testifying she determined the walls were of materials they used in the 1940's (Plaster) etc...

Discussion...

Ms. Hummerstone states; it is her professional opinion this home was operating as a pre-existing two family from the era of the 1940's or early 1950's.

Discussion continues...

Mr. Seibel swears in: Ms. Ann Peck, Assistant Zoning Officer to the Borough of Fair Lawn.

Ms. Peck testifies the reason why the applicant is here is because they were investigating the home being operated as a three (3) family. Her research determined it should be operating only as a two-family based on the history of the property.

Discussion with the Applicant on the existing layout where there are three (3) kitchens and operating as a 3 family.

Mr. Rosenberg (Board Attorney) explains the role of the Board Members in this application. They have to determine whether or not the facts lead to the conclusion it is a legal two family, not an illegal 3 family. The Applicant is not asking for a Zoning Certificate for a three (3) family.

Mr. Rosenberg continues; it may be an illegal three (3) family but it is up to the Building Department to take action against the owner, not the Board. The Board Members responsibility here tonight is to give permission for the continuation of a legal Two family.

Mr. Kaplan (Applicant's Attorney) explains how this all came about stating his client wanted to sell the home and was made aware of the non-compliance.

Discussion on when a Certificate of Occupancy was required by the Borough of Fair Lawn.

Ms. Peck states the requirement of a CCO started in the year 2000.

Conditions are discussed. Property Owner agrees to removal of the 3<sup>rd</sup> apartment.

Discussion continues...

Mr. Seibel swears in: Peter Van Den Kooy (Board Planner)

Mr. Van Den Kooy speaks to his report and the burden of proof on the Applicant. Based on testimony, the structure was converted to a two family early 1940's/1950's.

Review of a 1983 Building Permit where a two family was noted. Also in 1977, it is noted as a two family.

Discussion continues.

Documents are passed along to Board Members.  
Letter from John Smith dated July 10<sup>th</sup>, 1990 acknowledging a legal two family, not three family.

Discussion continues...

Mr. Kaplan has no further testimony. They have shown it is a two family dwelling with testimony from Ms. Peck and testimony from Ms. Hummerstone.

No further questions from Board Members.

Mr. Seibel opens to Residents living within 200ft. of the Resident for questions or comments. Seeing none,  
Mr. Seibel opens to the General Public for questions or comments. Seeing none,  
Mr. Seibel asks for a motion.

Ms. Baratta makes a motion to approve the application.  
Ms. Perchuk seconds the motion.

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

**Motion Carries.**  
**Application Approved.**

2. Application#2015-38, Simon Kalijevic,  
38-38 Ackerman Drive, Block 1612, Lot 15, Zone R-1-2.  
Property is corner lot. Proposed 18' x 28' Deck would have deck coverage of 7% where 5% is permitted as per Section 125-12 Schedule of area yard and building requirements. Would have a 30' front yard setback on Lyle Terrace where 40' is required for accessory structures as per Section 125-33 Accessory buildings, structures and uses.

Mr. Racenstein recuses himself from this Application.

Fees have been paid and there is Proof of Service.

Mr. Seibel swears in both: Mr. Christopher Rodriguez, Architect for the Applicant.  
Maple Ave  
Fair Lawn, N.J.

Mr. Simon Kalijevic  
38-38 Ackerman Drive  
Fair Lawn, N.J.

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

Mr. Rodriguez begins his testimony explaining to the Board how he proposes to build the deck, notes the hardship of the property and how it slopes in the back. There is very little flat area to put the deck so they are seeking the relief. Speaks to a patio they could have done without coming for relief but his client prefers having a Deck.

Discussion...

Mr. Puzio (Vice-Chairman) asks Mr. Rodriguez if anyone had given thought to reducing the size of the deck to help keep within the 5% allowed.

Discussion continues...

Mr. Rosenberg (Board Attorney) clarifies this is where a C-variance comes into play with the irregular shaped lot causing the hardship.

Discussion continues...

No further testimony is heard.

No further questions from the Board Members.

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

Mr. Seibel opens to the General Public for questions or comments. Seeing none, Mr. Seibel asks for a motion.

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

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

**Motion Carries.**  
**Application Approved.**

\*\*Mr. Seibel conducts Order of Business before moving to Commercial Business.

**Minutes:**

Mr. Racenstein made a motion to approve the minutes of *November 23, 2015*, Regular meeting and Mr. Blecher seconded the motion.

**VOTE:** All Present – **AYE**

**Vouchers:**

1. Winnie Banta Hetherington Basralian & Kahn in the amount of \$90.00 for Legal services rendered for Application#2015-030, OJAS Realty, LLC.

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

2. Winnie Banta Hetherington Basralian & Kahn in the amount of \$816.66 for Legal services rendered for the Zoning Board of Adjustments Regular meeting of December 21, 2015.

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

**VOTE:** All Present – **AYE.**

**Resolutions:**

1. Application #2015-34, Robert & Joan Naddy, 22-01 Morlot Ave, Block 3522, Lot 7.01, Zone R-1-3– Proposed 6ft. Fence- Approved.

Mr. Puzio makes a motion to accept this resolution and Ms. Perchuk seconded the motion.

**VOTE:** All Present – **AYE.**

2. Application #2015-35, Chaitanya Prasad Prassanna, 0-23 Saddle River Road, Block 1101, Lot 12, Zone R-1-1- Proposed Addition & Renovation- Approved.

Mr. Puzio makes a motion to accept this resolution and Mr. Racenstein seconded the motion.

**VOTE:** All Present – **AYE.**

3. Application #2015-36, Irina Aksen & Sergey Lysenko, 36-19 Hillside Terrace, Block 2614, Lot 22, Zone R-1-2– Proposed Shed installed 4’ from property line. Denied.

Mr. Racenstein makes a motion to accept this resolution and Mr. Puzio seconded the motion.

**VOTE:** All Present – **AYE.**

4. Application #2015-37, Raj Narayanan, 3-44 Hartley Place, Block 3325, Lot 1, Zone R-1-3– Proposed expansion of a non-conforming lot- Approved.

Mr. Racenstein makes a motion to accept this resolution and Ms. Perchuk seconded the motion.

**VOTE:** All Present – **AYE.**

**\*\*Mr. Seibel calls a 5 minute Recess before proceeding.**

**\*\*Mr. Seibel calls meeting back to Order.**

Mr. Bruce Rosenberg recuses himself from this application. Mr. Tom Randell will be representing Mr. Rosenberg as Board Attorney.

Mr. Racenstein (Board Member) recuses himself from this application; he is not eligible to vote.

Mr. Puzio is not eligible to vote but chooses to stay to become eligible if needed in future hearings in a vote.

**Commercial Business Carried:**

1. Application #2015-27, VR II, 20-19 Fair Lawn Ave, LLC.  
20-19 Fair Lawn Avenue, Block 4701.01, Lot 1, Zone B-1.  
Proposal to remove existing building and replace with a new 24hr. 7-Eleven Convenience store. Retail establishments which are located in the B-1 Restricted Business Zone and which seek to operate 24 hours per day shall be permitted as a conditional use as per Section 125-43.3. Applicant cannot meet all the requirements of the conditional use and requires a D-1 Use variance as per Section 125-57D(1)(d)[1] Would require bulk variances as per Section 125-12 Schedule of area yard and building requirements.--Lot width of 91.2' Front yard setback of 9' on Pollitt Drive. Side yard setback: 5.6' and 9'. Parking variance; 14 spaces required and 12 provided. Sign variances as per Section 125-41. Preliminary and final major site plan approval required as per Section 125-65A. and any other variances and/or waivers that may be required for this application.

**Application carried to the Regular Meeting of January 21, 2015 for the purpose of a vote only. No further Testimony to be heard. No further notice required.**

**\*\*Transcripts Ordered.** Please refer to Transcripts provided by Court Stenographer for minutes recorded on Borough Website when available.

Discussion amongst the Board Members on RFQ's required for the Re-organization meeting of January 21, 2016.

Mr. Puzio makes a motion in favor of the RFQ's and Ms. Baratta seconded the motion.

**VOTE:** All Present - **AYE**

**Adjourn**

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

**TIME:** 10:00 P.M.

**VOTE:** All Present - **AYE**.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk