

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
Of April 18, 2016**

Following are the Fair Lawn Zoning Board of Adjustment's Meeting Minutes from the Zoning Board Regular meeting held on April 18, 2016

Chairman Richard Seibel called the 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. Racenstein
Mr. Puzio, Mr. Naveh, Mr. Reinitz & Mr. Seibel

Absent: Mr. Zharnest

Also in attendance were; Board Attorney, Bruce Rosenberg, Court Reporter; Kim O. Furbacher, Assistant Zoning Officer, Ann Peck. Cathy Bozza, Assistant to Zoning Department(Absent)

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

Pledge of Allegiance is cited. (Dedicated to the Troops)

Residential New Business:

1. Application#2016-011, Marian & Semion Yakubovich,
851 Van Riper Place, Block 2504, Lot 29, Zone R-1-2
Proposed 2nd floor addition and rear 2 story addition would maintain the existing front yard setback of 27.8' where 30' is required. Would reduce the existing impervious coverage from 38.6% to 37.9% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements. Would increase the FAR from 23.96% to 41% where 37% is permitted. D-4 variance is required as per Section 125-57D (1) (d) [1]

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

Mr. Seibel swears in: Mr. Semion Yakubovich (Applicant)
38-51 Van Riper Place
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Seibel swears in: Mr. Glenn Staubaus (Architect)
Molinari Studio Architects
26-02 Broadway
Fair Lawn, N.J.

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

Mr. Staubaus states he is an Architect, he is not an Attorney, and does not represent the applicant so he would like the Applicant to begin testimony explaining what he would like to do.

Mr. Yakubovich begins his testimony explaining he would like to renovate the house. They have been living there since 2010 and it's the oldest house on the block. It is an old style split level. They would like to add a second floor. The addition will be to the rear of the house.

He testifies his hardship is the fact he has an undersized lot. Explains he would not need this variance if his lot was the size required for this block which would be 7500sf. He only has 6900sf.

Discussion on Lot size.

Mr. Seibel clarifies by stating if he had a conforming lot of 7500sf, then he would have made the 37% FAR.

Discussion continues....

Mr. Seibel referring to the pictures submitted notes the houses in the surrounding areas have been updated and modernized....

Mr. Yakubovich details the location of the pictures reiterating theirs is the oldest style house on the block.

Mr. Seibel asks Mr. Staubaus if he would like to add anything.

Mr. Staubaus (Architect) would like to clarify there are existing non-conformities in the lot. Reviews the Lot size, front yard setback which will be maintained. Currently there is excess impervious area on the property but it will be reduced due to the addition itself. It takes away patio and steps, also sidewalk area to bring the reduction. As the applicant stated, the lot is undersized in the R-1-2 zone.

Testimony continues as to Lot sizes in the surrounding areas and the improvements made with the other homes in the area.

Ms. Baratta (Board Member) has a question. Notes every application stands on its own and referring to a picture submitted, questions Mr. Yakubovich if this home is directly behind him?

Discussion....

Ms. Baratta finds his application complete and comments that it looks very nice.

Mr. Puzio (Vice-Chair) questions Mr. Staubaus as to what impervious will be removed.

Mr. Staubaus clarifies down the right side of the property, there is a walkway removed and where the addition is going there are patios and walks which will be replaced by the addition.

Mr. Lowenstein (Board Members) questions the design proposed.

No further questions from the Board.

Mr. Seibel opens to Residents living within 200ft. for questions or comments.

Mr. Seibel swears in: Brian Blecker
38-54 Van Riper Place
Fair Lawn, N.J.

Mr. Rosenberg (Board Attorney) because Mr. Blecker is a member of the Board, it does not prevent him from expressing their 1st Amendment rights with respect to any application. They have the ability to appear before the Board and make comments, either in favor or against any application...

Mr. Blecher testifies he lives across the street from the applicant and had reviewed the plans carefully. He thinks the proposal fit into the character of the neighborhood and sees no reason why it should not be approved. He likes what he sees.

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

Mr. Seibel opens the application to the General Public for questions or comments. Seeing none,

Mr. Seibel closes this portion and asks for a motion.

Mr. Racenstein makes a motion to approve the Application.

Ms. Baratta seconds the motion with correction to address which is 38-51 Van Riper.

VOTE: Mr. Racenstein, Ms. Baratta, Ms. Perchuk, Mr. Puzio, Mr. Naveh & Mr. Seibel. **YES.**
Mr. Lowenstein, **NO.**

Motion carries: 6-1
Application Approved.

2. Application#2016-012, Daniel Furphy,
31-11 Southern Drive, Block 2415, Lot 8, Zone R-1-3
Expansion of a non-conforming structure. Ordinance 125-32C (4) permits expansion without

variance provided requirements are met-existing non-conforming side or front yard setbacks are not less than 50% of the required side or front yard setbacks but no closer than 12ft to the existing dwelling on the adjoining property. Proposed rear one story addition. Would maintain the existing side yard setback of 7.0' and 7.2' where 10' is required and is 10.31' from neighboring structure where 12' is required as per Section 125-32C(4) and as per Section 125-12 Schedule of area yard and building requirements.

Mr. Seibel swears in: Daniel Furphy (Applicant)
31-11 Southern Drive
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Mr. Seibel clarifies Mr. Furphy is here for an expansion on a non-conforming structure, reviews the proposal...

Mr. Furphy begins his testimony. He would like to put an addition on the rear of his home. He has an expanded Cape. He would like to push out the bathroom and bedroom in the rear. The purpose for this addition is for his Mother who lives in Florida can now move to Fair Lawn where he can care for her.

Discussion on Lot size.

Mr. Seibel swears in: Ms. Ann Peck (Assistant Zoning Officer)

Mr. Seibel questions Ms. Peck on Mr. Furphy's lot. If it was conforming, he would not have to be here, correct?

Ms. Peck states if his house was situated properly, he would not. All his coverages are way under. The Ordinance does not allow you to be closer than 12ft. to your neighbor, and he can't meet that, otherwise he would have made it.

Mr. Lowenstein (Board Member) would like Mr. Furphy to clarify where he is putting this addition. Is he adding a level or proposing above or behind the existing structure?

Mr. Furphy testifies he has a two story home. He is expanding the first floor out approximately 10ft. He is staying within the setbacks. The addition is fully compliant.

No further questions from the Board.

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

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

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

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

Motion Carries.

Application Approved.

3. Application#2016-014, John Clifford,
39-09 Sycamore Drive, Block 1209, Lot 24, Zone R-1-3
Proposed additions and new front porch would increase the building coverage from 24.3% to 26.6% where 25% is permitted. Would increase the impervious coverage from 39.8% to 41.3% where 35% is permitted. Maintain the side yard setbacks of 5.1ft. and 6.5' where 8' is required. Would decrease the existing front yard from 25' to 21' where 25' is required as per Section 125-12 Schedule of area yard and building requirements. Building height of 33' 6" where 30' is permitted requires a D-6 Height variance as per Section 125-57D (1)(d)[1]

Mr. Puzio (Vice-Chairman) has recused himself from this Application.

Mr. Seibel (Chairman) would like to clarify and make a correction regarding impervious coverage. The existing is at 39.8% and according to the plans, it will be kept at 39.8%. There will be no increase as stated in the Agenda.

So noted.

Mr. Seibel swears in: John Clifford (Applicant)
39-09 Sycamore Drive
Fair Lawn, N.J.

Mr. Seibel also notes the Agenda has the Building coverage being increased to 26.6% and according to the plans, it will be maintained at the existing 24.3%.

Mr. Clifford testifies this is correct. The increases were on a previous plan. They had a Front Porch which was going to be added.

Mr. Seibel clarifies with Mr. Clifford that the front yard setback would decrease from 25' to 23' instead of the 21ft. as the Agenda states?

Mr. Clifford explains the plan includes a Cantilever over the front by 2ft.

Discussion.

Mr. Rosenberg (Board Attorney) notes to the Board Members this is important to keep in mind, that the relief required by the Application caps with the plan.

Ms. Peck (Assistant Zoning Officer) notes for the record, the original plans submitted were reviewed on 6/25/15. It was revised.

Review of the Revised Plan calculations...

Decrease existing Front yard from 25ft. to 23ft. where 25ft. is required.
Building coverage will be maintained of 24.3% where 25% is permitted.
Building height remains 33.6' where 30ft. is permitted. D-6 Height variance required.
Impervious coverage will be maintained at 39.8% where 35% is permitted.
Side yard setback will be maintained of 5.1ft & 6.5' where 8ft. is required.

Fees have been paid and there is proof of service.

Mr. Seibel asks Mr. Clifford to please tell them about his proposal.

Mr. Clifford testifies they are looking to do an Add-a-Level on an existing Cape Cod Style house going over the 1st floor with a 2ft. cantilever over the front. No expansion to the left/right/front/back other than the cantilever.....

Mr. Clifford continues to state it will be very consistent to other homes in the neighborhood.

Discussion on the height of 33.6'.....

Ms. Peck (Assistant Zoning Officer) interjects to note the elevation plan in the Board's Package shows the height from the center of the street is 93.92 & the elevation of the house is 100, so it's almost a 7ft. difference.

Discussion continues....

Ms. Peck states for the record when they took the height of the house based on grade, based on scaling the plans at 1/4, it comes in at 30ft.

Discussion continues...

Ms. Baratta questions the lack of renderings for the rear of the home. She would like to know how this will look.

Mr. Clifford testifies the rear of the home would look somewhat like the front without the peaks. Details.....

Attic space is discussed. Questions if windows will be in the attic. Access will be pull down.

Mr. Lowenstein questions the left hand side of the home. There seems to be a vent stack or something? Can he explain what that is?

Mr. Clifford explains there is a wood burning stove in the basement and it will be removed.

Mr. Lowenstein asks Mr. Clifford if he would agree to the removal of this stove as a condition of any approval.

Mr. Clifford testifies yes.

No further questions from the Board.

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

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

Mr. Lowenstein makes a motion to approve the application with the condition the Wood-Burning stove/vent stack will be removed.

Ms. Perchuk seconds the motion.

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

Motion Carries.

Application Approved.

Mr. Seibel requests a short recess:

Mr. Seibel calls the meeting back to Order.

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

4. Application#2016-015, Kulwant & Swarnjit Malik,
0-78 Midland Ave, Block 3226.01, Lot 19, Zone R-1-3
Expansion of a non-conforming structure. Ordinance 125-32C (4) permits expansion without variance provided requirements are met-existing non-conforming side or front yard setbacks are not less than 50% of the required Side or front yard setbacks but in no closer than 12ft the existing dwelling on the adjoining property. Proposed 2nd floor rear addition. Would maintain the existing side yard setback of 5.57' and 6.07' where 8' is required and is 11.58' from neighboring structure where 12' is required as per Section 125-32C(4) and as per Section 125-12 Schedule of area yard and building requirements.

Mr. Seibel swears in: Mr. Kulwant Malik (Applicant)
0-78 Midland Ave;
Fair Lawn, N.J.

Fees have been paid and there is proof of Service.

Mr. Seibel swears in: Glenn Staubaus (Architect)
26-02 Broadway
Fair Lawn, N.J.

Mr. Seibel certifies Mr. Staubaus as an Expert in the Field of Architecture with no objections.

Mr. Malik begins by explaining he has lived in Fair Lawn in his residence for the past 25 years and would like to make an addition with a 2nd floor. He would like to add a Bedroom and another bathroom. He needs the additional space for family.

Mr. Staubaus testifies the Applicant is in the R-1-3 zone. The lot is 10,702sf where 6500sf is required but the existing non-conformity of the lot is that it is only 50ft wide where 65ft. is required...

Mr. Staubaus reviews the Ordinance requirements with the Board regarding a non-conforming structure and its conditions. North side yard does not meet requirement. It is 5" short of the 12ft. requirement.

Testimony continues....the proposed addition is in the rear of the property with a full dormer across the back and over the kitchen bump out. Front elevation stays the same...

Mr. Seibel (Chairman) notes the side yard non-conformity is there whether he does this or not and the property itself exceeds the 6500sf but it's very narrow and deep lot.

Questions from the Board Members...

Mr. Lowenstein asks Ms. Peck to clarify the side yard requirement of only 8ft.

Discussion.....

Ms. Peck states it goes to 8ft. if claiming non-conforming, so it should be 10ft. because the requirement for the zone would be 10ft. He is correct. It should be 10ft.

Discussion continues....

Mr. Seibel clarifies because it is already an existing non-conforming structure, it goes to 8ft.

No further questions from the Board.

Mr. Seibel opens to Residents living with 200ft. of the Applicant for questions of this witness.

Mr. Seibel swears in: Sean Caravaglin
22-01 Dalton Place
Fair Lawn, N.J.

Mr. Caravaglin is concerned about water run-off. He has a bad water run-off there and has

spent an exuberant amount of money fixing it. Questions when the property starts changing, how will this affect him to the rear and to the left? He lives behind him and the property is long and narrow & at a low point so it collects water...

Mr. Stubaus (Architect) testifies the applicant is proposing a 2nd floor addition onto the existing house with the same footprint so there is no increase in impervious area.

Discussion...

Mr. Caravaglin speaks to his concerns; if the roof & gutters are being redone, they will not drain as they do so now and the water will be moved more so onto his side of the property.

Mr. Stubaus differs in opinion. Testifies it is the same amount of roof area. There is a gutter at the front of the house and at the back of the house. By raising the back of the house to a 2nd floor, there is still a gutter to the back of the house, the downspout is longer but would still discharge to the same area as existing. It will not alter anything. Nothing is being changed. No expansions, no patios.

Discussion continues...

Dry Well is discussed.

Mr. Stubaus reiterates there is no alterations to the existing conditions. There is no grading, no soil movement, there is no excavation, no foundation. The construction is taking place entirely on top of the existing home.

Discussion continues...

No further questions.

Mr. Seibel reopens the application to Residents living within 200ft. of the Applicant for questions. Seeing none,

Mr. Seibel opens to the General Public for questions or comments.

Mr. Racenstein (Board Member) has a question for the Architect. Is there any possibility when the gutters are put up to have them pitch to Midland Ave and not to the rear of the home but to the front?

Discussion on placement of a Dry well that has openings so the water seeps to the front so it could satisfy the neighbor in the rear of the home?

Mr. Staubaus (Architect) feels this would be a burden to put on this homeowner and in his opinion he would say without proper engineering analysis, there is no confirmation that would solve the problem. The neighbor mentioned the water from his area runs into this specific area also...plus the adjacent neighbor's water run into the same...given the distance of this house from the back of the property, we do not know the water from the roof is causing this problem versus the general runoff of the rain falling on all the open areas that cells in this low area, so the proposal asked is rather an expensive option without the knowledge that it would correct the situation.

Discussion...

Mr. Saravaglin (Resident) steps back up to the Podium and notes this area has been covered by the town. Mr. Wenowsky, the Town Engineer would have the information. This has been an ongoing issue with these properties here. It is a concern.

Mr. Seibel states it is duly noted.

Mr. Seibel closes the General Public portion and asks for a motion.

Ms. Baratta asks to make a comment before a motion is made. States she is familiar with the flooding in this area and it has to do with the Brook which is located, she believes in Saddle Brook or Elmwood Park. The town has been waiting for this to be fixed. A lot of the homes in this area have had flooding problems. With this being said, she does not believe this structure is going to add or decrease to the flooding problems...Although she does sympathize with the neighbors because it has been an ongoing problem, she does not believe this application will further the problem.

Mr. Puzio makes a motion to approve the application.

Ms. Baratta seconds the motion.

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

Mr. Racenstein: **NO**

Motion Carries. 6-1
Application Approved.

5. Application#2016-016, Valerian Arva,
7-02 Park Ave, Block 5502, Lot 16, Zone R-1-3
Installation of a Shed 3' from property line where 4' is required as per Section 125-3,
Accessory building structures and uses.

Mr. Seibel swears in: Valerian Arva (Applicant)
7-02 Park Ave;
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Seibel clarifies with the applicant the storage shed has already been installed.

Mr. Arva testifies yes. It has been there approximately a year.

Mr. Seibel reviews the denial on the Agenda. Asks Mr. Arva if he had a permit to install the shed to which Mr. Arva testifies yes.

Discussion...

Mr. Arva testifies the Shed is an 8x10 and is supposed to be 4ft. from the property line. Refers to his pictures and notes on one side he is 4ft. from one side of the property line but the back of the Shed it is 3ft. from the property line.

Mr. Arva states upon the inspection, it was noted to be 3ft. from the back property line.

Discussion...

Mr. Arva explains if he moves the Shed to the required 4ft. it will come closer to his back door.

Discussion continues...

Ownership of Fencing is clarified.

Mr. Arva testifies he has no issues with maintenance in the back of the shed. He can get behind it.

No further questions from Board Members.

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

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

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

VOTE: Mr. Racenstein, Ms. Perchuk, Mr. Lowenstein & Mr. Seibel, **YES**.
Mr. Blecker, Ms. Baratta, Mr. Puzio, **NO**.

Motion Carries- 4-3
Application approved.

Mr. Seibel calls a Recess before moving to the Commercial Application.

Mr. Seibel calls the meeting back to Order.

Roll Call: Mr. Racenstein, Ms. Baratta, Ms. Perchuk, Mr. Lowenstein,
Mr. Puzio, Mr. Naveh, Mr. Reinitz & Mr. Seibel, **Present**.

Mr. Brian Blecher (Board Member) is not eligible to vote.

Commercial Application Carried:

1. Application # 2016-02, Fair Lawn J & S Holdings, LLC
23-08 Maple Avenue, Block 5903, Lot 5, 5.01 & 36,
Proposed new Dunkin Donuts --"Fast Food Restaurants" are not permitted in the B-1 zone and would require a D-1 use variance- Proposed 24 hr. establishment- 24hr. Establishments are only permitted in the B-1 Zone for a retail establishment not "Fast Food Restaurant"--requires a D-1 use variance as per Section 125-57.D (1) (d) [1] Would require a variance for front yard setback of 11' where 20' is required as per Section 125-12 -- A waiver is required for loading area proposed 11' x 56' where ordinance requires 12' x 56' as per Section 125-48 Parking and loading areas---Sign variances required as per Section 125-41 Only one sign is permitted for each principal use three are proposed---Proposed free-standing sign does not meet requirements for size of sign, height of sign and setback from the front yard property line. Proposed coffee cup logo does not meet the size. Proposed channel letters exceed the permitted 16' total height permitted by ordinance Major site plan approval is required as per Section 125-65 and any other variances and/or waivers that may be required for this application.

Mr. Michael Piromalli (Attorney for the Applicant) steps forward, appearing on behalf of Fair Lawn J&S Holdings, LLC in regard to subject property located at 23-08 Maple Ave.

Mr. Piromalli states this is the 3rd appearance before the Board in connection with the present application for preliminary and final site plan approval as well as use and bulk variance approvals to demolish the existing Office building onsite and construct a new one-story building for use as a Dunkin Donuts restaurant location.

Mr. Piromalli reviews previous testimony made at the Special Meeting on April 7, 2016 stating; the Applicant provided professional testimony by professional Engineer, Eric Hook of Bertin Engineering. He testified to the revisions which were made to the Site plans as a result of several recommendations made by the Bergen County Planning Board. He also testified in regards to traffic and parking and the ability of the site to accommodate the proposed Dunkin Donuts use.

Mr. Piromalli continues; at the conclusion of Mr. Hook's testimony it was clear the Board had some additional traffic related questions and concerns. Tonight they would like to start with additional traffic testimony which we hope will answer the traffic related concerns. He then hopes there is enough time to present planning testimony and complete the application.

Mr. Piromalli noted Mr. Racenstein's (Board Member) recommendation of a possible condition to the application; to prohibit left hand turns exiting the site during peak hours; 7am-9am & 4-6pm hours. While his applicant was willing to accept such a condition, it was noted it was not permitted by the Applicant's agreement with Dunkin Donuts and as a result-their approval as a franchised was necessary prior to the Applicant accepting the condition.

He is glad to say since the last meeting, the Applicant has negotiated with the Franchise Agreement to allow the condition limiting the prohibition of left turns exiting the site during these peak hours.

Before proceeding with testimony of witnesses, eligibility of Board Members is clarified.
All members seated are eligible.

Mr. Lowenstein (Board Member/Secretary to the Board) notes additional fees required have been received by the Applicant.

Mr. Seibel swears in Board Professionals: Peter Van Den Kooy-Board Planner
Frank Miskovich-Traffic Consultant
Paul Azzolina – Board Engineer
Ann Peck- Assistant Zoning Officer

Mr. Seibel swears in: Mr. Calisto Bertin (Professional Engineer)
66 Glen Ave;
Glen Rock, N.J.

Mr. Seibel certifies him as a Professional Engineer with no objections.

Mr. Bertin begins testimony regarding traffic issues& concerns the Board had, such as; could the existing driveways in the area and the proposed Dunkin Donuts driveway be safely navigated considering the speed of the traffic in the area... during peak hours.

Mr. Bertin testified to taking additional studies since the last meeting, last week and this morning. Giving some background...his office is located in Glen Rock, banks at the TD Bank and goes to Johnny & Hanges on occasion, to the Car wash, etc...he is familiar with the area.

He addresses the issues of entering and exiting a site. Adequate site distance is necessary. Reviews the Bergen County site distance requirements.

Enters into Evidence-Exhibit H-Supplemental Traffic Report.

Mr. Bertin reviews the report with the Board. Site distance is well over 500ft. Details the site with the Board.

Speaks to gaps and the size of the gaps needed to make a left hand turn out of the driveway or left turn into the driveway...this requires a 7.1second gap in traffic. No traffic in either direction for 7.1 seconds....this is prorogated by the Federal Highway Administration and we use it in our studies.

Testimony continues...details of the study done. They did the gap study for an entire hour due to the Board's concerns at the last meeting...

Review of the number of gaps they got from the study...there were gaps that were over 30seconds long.

Continues with the analysis...Gaps do vary over time. Theoretically they have an opportunity to make a higher than 57 left turns out of the site...explains...
Speaks to right hand turns...a lot more opportunities.

Testimony continues...

Mr. Bertin testifies just for verification, they have a copy of a video on traffic from Thursday morning and this morning at peak hour so the Board could see the cars could make the turn...

Entered in Evidence-Exhibit I-Thursday, April 14, 2016 –Traffic Video
Exhibit J-Monday, April 18, 2016-Traffic Video

Review of Video...Exhibit I-

Discussion on the findings.

The new study shows the existing traffic would support 157 turns...it was done over a course of an hour.

Discussion continues...clarification is made on testimony regarding the amount of turns.

Mr. Bertin continues with his findings referencing the Exhibit showing locations where traffic would be less congestive than by the TD bank and clearly by Elm Avenue. Explains...

Board reviews Exhibit J –Video made on April 18th, 2016.

Mr. Bertin reviews findings with the Board...the findings document there are opportunities to make left hand turns. Dunkin Donuts agreed to the restrictions of the left hand turns during peak hours but in his opinion he does not feel the restriction is necessary.

Discussion continues...

Mr. Bertin testifies the findings determine there are at least 92 Gaps in 7seconds, the site distance exceeds what is required...

Mr. Lowenstein (Board Member) questions if it is busy onsite, noting the video does not show any vehicles from the proposed site obviously... so if the site is busy with 100 vehicles an hour, details the obvious...questions this traffic impact of entering.

Mr. Bertin points out the only impact from entering is when a car is backing out and blocks the driveway. This is why the requirement from Bergen County is no parking within 20ft. of the right-a-way.

Discussion continues....

Frank Miskovich (Board Traffic Engineer) concurs with Mr. Bertin in this assessment. Notes there will be some congestion to some extent because of the number of parking spaces on the site... Some people may decide to park on the other site. It really is a balancing act. The peak hours is really when this most probably will occur but the rest of the day is pretty minimal.

Discussion continues regarding numbers & percentages of traffic for 208N & 208S and the probability of the Pathmark site opening up to mixed use in the future and how this will affect the numbers. If this center opens up to the Pathmark again, it will add 3seconds to the Gap calculations...

Discussion continues...

Discussion on the Lease terms from the adjoining property for the extra spaces...

Mr. Piromalli (Attorney for the Applicant) states it will be for 5 years with two options to renew for 5 year terms. A total of 15 years.

Mr. Seibel confers with Mr. Rosenberg (Board Attorney) in regards to this lease and how it affects them and what they do here.

Mr. Rosenberg explains there is an Ordinance in the Borough and it was put in place to allow Cooperative Parking. Explains there is an actual agreement form the applicant has agreed to, if the application is approved, they would follow...details how this agreement is done.

Clarification of this agreement and its terms are reviewed.

Discussion & questions continue amongst Board Members regarding this Cooperative Agreement.

No further questions from the Board.

Mr. Seibel opens to Residents within 200ft. of the Applicant for questions.

Mr. Seibel swears in: Fulvio Grosso (Owner of Johnny & Hanges)
64 Maser Place
Hawthorne, N.J.

Mr. Grosso states he has been listening to a lot of no left turns and has been watching the traffic flow for 17 years himself at the site. He has not known of any incidents. His property is a little more difficult than the proposed site. Explains...he considers himself a veteran of this site and reiterates he has seen no problems over the years.

Mr. Seibel reopens to Residents living within 200ft. for questions. Seeing none,

Mr. Seibel opens to the General Public.

Mr. Seibel swears in: Craig Miller
5 Ramapo Terrace
Fair Lawn, N.J.

Mr. Miller has two questions. Is this site going to have a drive thru?

Mr. Bertin testifies this will have no drive thru.

Mr. Miller referring to the cooperative shared parking speaks to a hypothetical situation in the future. Example; Johnny & Hanges have a sale and cars go into the Dunkin Donuts Lot to park-will there be a feud for parking spaces?

Mr. Piromalli (Attorney) explains as far as the Cooperative parking, the Dunkin Donuts parking is only for a limited amount of time, ends at 11am. There will be signage stating Dunkin Donuts customers are only allowed to park until 11am.

Mr. Miller questions the opposite, but if Johnny & Hanges lot is packed, can they go into the Dunkin Donuts lot to park without an issue?

Discussion ...

Mr. Piromalli notes the neighboring businesses are working on competing times. Dunkin Donuts is busiest from 6-10am; Johnny & Hanges doesn't open until 11am. Dunkin Donuts afternoons are very quiet, in which case no one will complain if the J&H customers are parking.

Ms. Baratta (Board Member) asks will this be formalized in anyway or will this be a handshake agreement that we have seen before...

Mr. Piromalli will leave it to the Board's discretion. If the Board would like to explore this and the two business owners are happy to enter into an arrangement the Board sees fit...

Mr. Seibel (Chairman) it is his opinion, the peak hours for each business complement each other and do not conflict with each other..

Frank Miskovich (Board Traffic Engineer) states he concurs. Since there is limited parking on the Dunkin Donuts property, having an agreement that says; they can officially park there would defeat the purpose. As long as the two properties are in agreement, it will balance out. Looking at the two businesses and the peak hours, they are compatible with parking. He does not see it being an issue.

Discussion continues...it is agreed to let it flow with no formal agreement necessary. They are compatible times of business.

No further questions from the Board.

Mr. Seibel calls for a Recess.

Mr. Seibel calls the meeting back to Order.

ROLL CALL: Mr. Racenstein, Ms. Baratta, Ms. Perchuk, Mr. Lowenstein,
Mr. Puzio, Mr. Naveh, Mr. Reinitz & Mr. Seibel, **Present.**

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

Mr. Seibel swears in: Steven Novak (Professional Planner)
25 Westwood Ave
Westwood, N.J.

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

Mr. Novak begins his testimony by entering an Exhibit.

Exhibit K-Supplemental Map and Site Photograph.

Mr. Novak references the Site Map and details lot size, locations, etc...speaks to the Zoning location. B-1 Restricted Business and what is permitted...Proposed use...Master Plan.

Mr. Novak speaks to the variance relief requested: 2 D-1 variances...C variances.

Mr. Novak reviews the Positive Criteria and the Negative Criteria with the Board.

Positive: Special reasons for the granting of the variance. It will further the purpose of the Municipal Land Use Law.

Negative: No substantial detriment to the Public Good and no substantial impairment to the intent of the Master Plan.

Mr. Novak speaks to how the site is particularly suited for the use and how the site is not inconsistent with the Master Plan.

Mr. Novak testifies how there are no impacts to surrounding residential properties. The nearest residential is located on Fern Street, and what this distance allows is an appropriate buffer so typical concerns such as lighting and noise will not have an impact but it would still be close enough to be considered a Community Coffee Shop.

Testimony continues ...Mr. Novak references the surrounding Johnny & Hanges, a restaurant, the DeBrow Sports Field, where you could swing by and get a cup of coffee for your child's Saturday game, etc...

No surrounding uses clash. It would promote the Master plan, promoting a balanced variety of Residential, Commercial, Industrial, Recreational and Public Use.

Mr. Novak speaks to the Municipal Land Use Law. Explains how it promotes this. Regarding Negative criteria, they can safely say there is no substantial detriment to the Master plan and no substantial detriment to the Public good.

Testimony continues....

Speaks to the Parking...

Mr. Novak moves to the 24hr Operation and speaks to the positive criteria reiterating how the site is particularly suited. It is not located adjacent to any residential dwelling, it has direct access to Route 208 off ramps, so customers will not drive thru residential areas to get to the site. Supports the Master plan goal of providing for a variety of commercial uses...

Largely conforming to the conditions set forth in the Zoning Ordinance for 24hr. uses...
Explains....

Trash & Recycling removal is the only condition they do not meet 100%. Testimony has indicated the applicant is willing to have trash pickup in between the required hours of 7am & 6pm.

Mr. Novak reviews Negative criteria, again noting there is no substantial detriment to the Public good and no substantial impairment to the intent of the Master plan.

Mr. Novak moves to the variance relief of the Bulk items...addresses the Front yard setback requirement, Signage requirement & Height requirement. Speaks to the proposed.

Testimony concludes.

No questions from Board Members.

Peter Van Den Kooy (Board Planner) questions the height of the free standing Sign, noting the dimensions are not on the plan.

Mr. Novak concludes it is vague on the plan, he believes to his understanding, the dimensions of the sign would be 18ft. high with a 37sf. area which would include the Dunkin Donut sign and the smaller sign below this.

Height clarification of Channel Letters-Typo: 16ft. Testimony states it will be 16 inches. They will make the correction.

Discussion continues...

No further questions from Board Members or Board Professionals.

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

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

Mr. Palermari (Attorney for the Applicant) summarizes the application noting all testimony and why he believes this application should be approved.

Discussion and statements by Board Members...

Mr. Racenstein notes the applicant's willingness to be a good neighbor and trying to work with the community by going to Corporate regarding the elimination of left hand turns during rush hour. He appreciates this.

Ms. Baratta concurs with Mr. Racenstein and was impressed by Mr. Patel's willingness to work with the Board and listened to all the concerns the Board had. This is a neighbor we would like to have in Fair Lawn.

Mr. Reinitz in his opinion based on the Traffic studies and testimony thinks it would be a mistake to require the "no left turn" signs at the business...explains. Would cause more traffic issues...

Mr. Seibel notes in his opinion the video reinforced in his mind the traffic situation is not what he had previously believed...explains. He states more importantly, he does not believe anyone would follow the sign...

Mr. Lowenstein referencing the requested signage of no left turns asks Mr. Racenstein if the motion were not to include this prohibition, would this be a deal breaker and cause him to vote against the application...

Mr. Rosenberg (Board Attorney) interjects to state it is not an appropriate question to ask a Board Member. A motion is to be made and each Board member will vote.

Mr. Lowenstein in his opinion believes this articulation should be made. No left turns should be prohibited as the Applicant has agreed to...he explains. Recommends putting signage up for six (6) months prohibiting the left hand turn to test run.

Discussion continues amongst Board Members and possible conditions....

Frank Miskovich (Board Traffic Engineer) offers his opinion and states; for the left hand turn prohibition to be enforced by the Police requires the Town Council to adopt an Ordinance stating no left turn at this driveway...since it is on a County Road, it needs the county's consent for the Police to enforce it...explains...

Mr. Miskovich continuesspeaks to the balancing act.

Discussion continues....

Ms. Baratta concurs with Mr. Miskovich's statement regarding adoption of an Ordinance & the County's consent stating; the Police cannot enforce this Law unless Laws get changed on the Local & County Level...

Discussion continues regarding the suggestion of putting signage up for (6) months.

Mr. Seibel (Chairman) suggests NOT putting the signage up for (6) months and at the end of six months, see if there is a problem and if so, put in the "No Left turn"

Discussion continues amongst Board Members...

Mr. Racenstein (Board Member) reiterates the video footage showing the Gap times & testimony and believes along with the majority of his colleagues they should not have any sign allotment.

Mr. Naveh (Board Member) believes unless there was some type of serious safety issues and concerns, he does not see how they can limit the ability of one business on the street when all the other businesses have the ability to make these turns. It seems a little unfair and shares in the sentiment tonight with other members of the Board that they should look at this cautiously...

No further questions or discussion.

Mr. Seibel asks for a motion.

Ms. Barrata makes a motion to approve the application adding; The Applicant has agreed to enter into a Cooperative Parking Agreement to be approved by the Board Attorney and the correction of the dimensions of the Channel letters from 16ft. to 16”.

Ms. Perchuk seconds the motion.

VOTE: Mr. Racenstein, Ms. Baratta, Ms. Perchuk, Mr. Puzio, Mr. Naveh & Mr. Seibel. **YES.**
Mr. Lowenstein, **NO.**

Motion Carries 6-1
APPLICATION APPROVED.

Order of Business:

Memorialized Resolutions:

1. Application #2016-09, Abrahm Weintraub, 5-18 4th Street, Block 5405, Lot 23.
Proposed Addition-Approved.

Ms. Baratta makes a motion to approve this resolution and Ms. Perchuk seconds the motion.

VOTE: All Present: AYE

2. Application #2016-07, Tsirina & Pavel Sheynerman, 31-06 Grunstra Place, Block 2809,
Lot 12. Proposed Addition-Approved.

Mr. Naveh makes a motion to approve this resolution and Mr. Racenstein seconds the motion.

VOTE: All Present: AYE

3. Application #2016-10, Domingo & Elsie Perez, 0-22 34th Street, Block 2217, Lot 9
6ft. Fence-Approved.

Ms. Perchuk makes a motion to approve this resolution and Mr. Naveh seconds the motion.

VOTE: All Present: AYE

4. Application #2016-08, Janice Aquilina, 17-17 Well Drive, Block 2706, Lot 25
2nd Floor Dormer Addition-Approved.

Ms. Perchuk makes a motion to approve this resolution and Mr. Racenstein seconds the motion.

VOTE: All Present: AYE

Vouchers:

1. Winnie, Banta, Hetherington, Basralian & Kahn, in the amount of \$866.66 for Professional Legal services rendered for the month of April, 2016.

Mr. Puzio makes a motion to approve this voucher and Ms. Perchuk seconds the motion.

VOTE: All Present: AYE

Minutes:

Mr. Racenstein makes a motion to approve the minutes of March 21, 2016 and Ms. Perchuk seconds the motion.

VOTE: All Present: AYE

Adjourn:

Ms. Baratta makes a motion to adjourn and Ms. Perchuk seconds the motion.

VOTE: All Present: AYE

Time: 10:30 PM

Respectfully submitted,

Cathy Bozza
Assistant to Zoning