

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENTS  
MEETING MINUTES  
OF AUGUST 22, 2016**

Following are the Minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on August 22, 2016.

Mr. Richard Seibel called the Meeting to order at 7:10pm and declared the Meeting was being held in accordance with the Open Public Meeting Law.

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

**Absent:** Mr. Blecher, Mr. Lowenstein, Mr. Zharnest & Mr. Reinitz.

Also in attendance: Board Attorney; Bruce Rosenberg, Court Reporter; Candice Galaraza  
Assistant Zoning Officer; Ann Peck and Assistant to the Zoning  
Department; Cathy Bozza

No Professionals in attendance. No Commercial applications to be heard.

Chairman Richard Seibel leads the Pledge of Allegiance dedicated to our Troops.

**Residential New Business:**

1. Application #2016-33, 1-17 Hartley Place, LLC  
1-17 Hartley Place, Block 3324, Lot 30, Zone R-1-3,  
Expansion of a non-conforming structure. Ordinance 125-32C (4) permits  
expansion without a 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 2nd floor and rear addition; maintain the existing  
front yard setback of 10.8' where 25' is required. Would maintain the existing  
side yard setback of 3.3' where 10' is required and is 8.3' from neighboring  
structure where 12' is required as per Section 125-32.C.(4) and as per Section  
125-12 Schedule of area yard and building.

Fees have been paid and there is proof of service.

Mr. John Vogel steps forward. (Attorney for the Applicant)

Mr. Vogel reviews the application with the Board stating his Client is looking for an expansion on a single family home, proposing a 2<sup>nd</sup> floor which would be in character with the neighborhood.

Mr. Vogel reviews the variances requested with the Board....existing front yard, existing side yard, etc...

Mr. Vogel discusses submission of new pictures with the Board and calls his witness up to the Podium.

Mr. Seibel swears in: Mr. James S. Karas, (Architect) from JSK Architects  
27 Briar Hill Circle  
Bloomfield, N.J.

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

Mr. Vogel begins his cross...

Mr. Karas begins his testimony reviewing the proposal with Board Members discussing the 2<sup>nd</sup> floor addition. Refers to his Board Exhibit at which time Mr. Rosenberg (Board Attorney) enters the Exhibit into evidence as A1.

**A1-Colored Version Board Exhibit**-same plan as submitted with application, only colored.

Mr. Karas continues to review the proposal pointing out the similarities of other homes in the neighborhood referencing pictures on another Board Exhibit at which time Mr. Rosenberg (Board Attorney) again would like to be entered into evidence as Exhibit A2.

**A2-Board Exhibit with a series of (8) Photos**

Mr. Karas continues with his testimony reviewing the setbacks and requirements. Again reviewing the pictures submitted, pointing out the homes surrounding his Clients are similar to this proposal. In his opinion, there is no detriment to the public good, etc...

Discussion...there is a Impervious Coverage reduction. From 48.44% to 46.6%  
Narrowness of Lot is discussed. This is why they cannot meet the side yard setback...

Discussion continues regarding a Driveway easement covered by blacktop.

Mr. Karas (Architect) points out; if this easement had not been covered by blacktop, the impervious would have been at 34%.

Mr. Seibel points out for clarification; having the Blacktop over the easement, has a negative impact to the overage in impervious...

No further questions from the Board.

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

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

Mr. Puzio makes a motion to approve the application noting the impervious has been reduced from 48.4% to 46.6%.

Ms. Baratta seconds the motion.

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

**Motion Carries**

**APPLICATION APPROVED.**

2. Application#2016-34, Nicholas Nobre,  
14 Margaret Court, Block 1303, Lot 16, Zone R-1-2,  
Proposed Driveway Expansion to 22' wide will increase the existing impervious coverage from 40.63% to 44.68% 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. Seibel swears in: Mr. Nicholas Nobre (Applicant)  
14 Margaret Court  
Fair Lawn, N.J.

Mr. Nobre begins his testimony. He explains he is here this evening seeking approval on an expansion to his driveway from 18' to 22ft. He has issues with parking two cars back to back. One car intrudes into the sidewalk when parked and the Borough Ordinance does not allow for parking overnight on the street.

Mr. Nobre submits pictures showing the cars parked which were not submitted with the application so Mr. Rosenberg (Board Attorney) enters them into evidence as Exhibit A-1

Exhibit A1-Picture submitted showing parked cars in driveway.

Mr. Nobre continues to explain the hardship he deals with stating residents cannot get passed the sidewalk, etc...

Discussion continues on the proposal....

Question regarding material to be used is asked.

Mr. Nobre states he believes he may go with Concrete rather than Blacktop.

Pavers are discussed but Ms. Peck (Assistant Officer) notes Pavers are very costly to the Resident.

No further questions from the Board.

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

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

Mr. Racenstein makes a motion to approve the application.

Ms. Perchuk seconds the motion.

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

**Motion Carries**

**APPLICATION APPROVED.**

3. Application#2016-35, Doris M. Ceely/Agent: Ibrahim Soliman  
12-47 5th Street, Block 5615, Lot 18-19, Zone R-1-3,  
Prior Home was destroyed by fire and removed. Current Lot is vacant. Proposed New One Family dwelling will meet the Zoning requirements for setbacks. New dwelling will require a D-4 FAR variance. Proposed FAR will be 44% where 40% is permitted as per Section 125-57.D. (1) (d)[1]. Without a "Grandfather Clause" in the Ordinance, a C-1 variance is required as per Section 125-57.D. (1) (c)[1]. The existing lot is located in the R-1-3 Zone which requires a lot to be 65x100'. Existing lot is 47.68'/51.13'x 100'/100.16' and does not conform to the Lot requirements as per Section 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is proof of service.

Mr. Glenn Finkel (Attorney for the Applicant) of the Levine Law Firm, Fair Lawn

Mr. Finkel steps forward to review his client's proposal stating his client would like to build a new single family home on a Lot in which a house was destroyed by fire. He reviews the variances required- speaks to the C1 & D4 necessary for this application.

Mr. Finkel explains the empty lot existing and with his client's proposal would improve the neighborhood, etc....

Mr. Finkel would like to call his first witness to the Podium.

Mr. Seibel swears in: Matthew G. Evans (Architect) states he is both a Licensed Architect and Planner in the State of N.J. & N.Y.

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

Mr. Rosenberg (Board Attorney) clarifies for the record, if Mr. Evans will be testifying as both Planner and Architect this evening? Mr. Evans replies; he will be testifying as both.

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

Mr. Evans begins his testimony by reviewing the different variances requested. Speaks to the existing site, the undersized lot and what the Applicant is proposing. Refers to the new single family home and notes he and the Applicant went over the plans numerous times and tried to avoid as many variances as humanly possible...

Testimony continues...speaks to the requirements they did meet. Mr. Evans reviews side yard, front yard, building coverage, impervious coverage, FAR. Notes they would have met the requirement of the FAR but because the Lot size is non-conforming they are over by 4%.

Discussion.....

Mr. Evans walks the Board through Sheet 1 of the Site Plan. Speaks to the 1<sup>st</sup>. floor and 2<sup>nd</sup> floor design....

Mr. Evans continues to Sheet A2 which shows front elevation...details the different materials being used to break up element of façade which will be Stone and Stucco, which is pleasing to the eye.

Mr. Evans speaks to the positive impact to the neighborhood explaining the area is made up of older single family homes which are also on small lots and in his opinion the character & density of the home will keep within the character of the neighborhood.

He feels the dwelling will have no impact on the surrounding homes and neighborhood and promotes only positive.

Ms. Baratta (Board Member) posts a question to Mr. Evans (Architect) as to why if it is a vacant lot; why not build the home to conform?

Mr. Evans testifies he and his client tried many different designs in order to do so but found it nearly impossible with the lot size given...

Discussion continues.....

Mr. Seibel swears in: Ms. Ann Peck (Assistant Zoning Officer) to question and clarify the requirement of basement grade....

Mr. Naveh (Board Member) questions the Recharge Pit?

Mr. Evans describes the drainage plan explaining this design directs all the rain water to the Pit instead of the street.

Flooding issues are questioned.

Mr. Evans testifies he knows of no history of the property regarding flooding issues.

Discussion continues....

Mr. Seibel (Chairman) reviews Sheets 1 & 2....reviews design, etc., defers to Mr. Rosenberg (Board Attorney) regarding the undersized lot....is it a hardship?

Mr. Rosenberg explains to the Board Members the issue with requesting a D-4 on a "Vacant Lot"...how the Board has to weigh both sides...

Discussion continues....

Mr. Evan completes his testimony acknowledging this issue and reiterating the Site plan drawn was the only one that would work the best for the functionality of a growing family.

No further questions from the Board.

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

Mr. Seibel swears in: Timothy Egan  
5-07 Lambert Road  
Fair Lawn, N.J.

Mr. Egan begins by stating he has a small cape and has visions of this home towering over his house...

Mr. Evan speaks to the height requirement in Fair Lawn and he is meeting this requirement, 30ft. Regarding the FAR, it is only 4% larger which does not make any real change.

Discussion continues....

Mr. Egan questions excavation issues and if this will affect his property.

Mr. Evan addresses this question by noting they will build 8ft. from the property line, so it should not have any detriment to his property.

No further questions.

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

Mr. Seibel closes this portion.

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

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

Mr. Miller questions the final drawing of the plan stating he did not see them and would like to.

Mr. Evan (Architect) shows Mr. Miller.

Mr. Miller has concerns with Fire issues since this property has already burned to the ground. Will it be built to meet the requirements?

Ms. Peck (Assistant Zoning Officer) states the Code requirements will have to be met.

Mr. Rosenberg (Board Attorney) reiterates to Mr. Miller, the Fire Code will have to be met but it is not this Board's jurisdiction.....

No further questions or comments.

Mr. Seibel closes this portion.

Ms. Baratta (Board Member) asks the Architect if there is any way he could reduce the FAR and eliminate the 4%?

Discussion....

Mr. Seibel swears in: Ibrahim Soliman (Applicant)

Mr. Soliman testifies how the Bedrooms are odd sizes and he worked with the Architect many times trying to meet all requirements but came up short with just 4% of overage because of the lot being undersized, etc...could not go deep, could not go wide...

Board Members review site plan & suggest ways to eliminate the 4% with Mr. Evan....

Mr. Evan reiterates they have met all the requirements, lot coverages, all setbacks, bulk requirements...there is still the FAR by 4%, which is the Minimis. Designing the bedrooms for practicality and functionality became a hardship design. Explains.... The functionally would not flow, it would not be in proportion with the rest of the home.

Ms. Baratta does not agree a hardship has been proven on this application...

Mr. Evans continues to address the issue, again speaking to the 4%, noting it is the minimis increase to the FAR.

No further questions from the Board.

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

Ms. Baratta makes a motion to deny the Application.  
No second motion to deny.

**Motion to deny does not carry.**

Mr. Racenstein motions to approve the application.  
Mr. Lazarev seconds the motion.

**VOTE:** Mr. Naveh, Mr. Lazarev, Mr. Racenstein, Ms. Perchuk  
Mr. Puzio & Mr. Seibel, **YES.**

Ms. Baratta, **NO.**

**Motion Carries: 6-1**  
**APPLICATION APPROVED.**

Mr. Seibel calls for a 5 minute Recess before Order of Business.

**RECESS:**

Mr. Seibel calls the meeting back to order.

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

**Memorialized Resolutions:**

1. Application#2014-23, Pac Management LLC/Glen Motors Toyota,  
19-01Pollitt Drive, Block 4802, Lot 1, Zone I-1-Proposed Signage -**Approved**

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

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

2. Application #2016-28, Jennifer Tsakarakis, 5-19 5<sup>th</sup> Street, Block 5403, Lot 10 Zone R-1-3, Above Ground Pool- **Approved.**

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

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

3. Application #2016-29, Beyshys Wong, 7-12 Richard Street, Block 5716, Lot 14-Zone R-1-3-Proposed 2<sup>nd</sup> Story addition- **Approved.**

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

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

4. Application #2016-30, James Gilson & Carolyn N.Scharf, 32-09 Hillside Terrace, Block 2611, Lot 28, Zone R-1-2, Proposed 8ft. Fence- **Approved.**

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

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

5. Application#2016-31, Angel Sedano, 0-72 Elden Place, Block 2219, Lot 12, Zone R-1-3-Proposed Above Ground Pool- **Approved.**

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

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

6. Application #2016-32, John & Jennifer Niemiec, 30-07 Southern Drive, Block 3414, Lot 33, Zone R-1-3-Proposed Above Ground Pool- **Approved.**

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

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

7. Application #2016-33, Denise Beardsley, 9-08 Henderson Blvd, Block 5805, Lot 3, Zone R-1-3- Zoning Certification & Expansion of a non-conforming Two-Family- ***Approved.***

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

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

**Vouchers:**

1. Winnie, Banta, Hetherington, Basralian & Kahn, in the amount of \$816.66 for Professional Services rendered for the month of August, 2016.

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

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

2. Winnie, Banta, Hetherington, Basralian & Kahn, in the amount of \$90.00 for Professional Services rendered in the application of Glen Motors Toyota.

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

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

**Minutes:**

Mr. Puzio makes a motion to approve the minutes of ***July 25, 2016*** and Mr. Racenstein seconds the motion.

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

**Adjourn:**

Ms. Baratta makes a motion to adjourn and Mr. Naveh seconds the motion.

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

Time: **8:31pm**

Respectfully submitted,

Cathy Bozza  
Assistant to Zoning