

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

Following are the Minutes of the Fair Lawn Zoning Board of Adjustment's Re-Organization Meeting held on February 22, 2016.

Mr. Richard Seibel called the Meeting to order at 7:15pm and declared the Meeting was being held in accordance with the Open Public Meeting Law.

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

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

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

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

Mr. Seibel swears in Mr. Brian Blecher as a re-appointed Member to the Board.

Residential New Business:

1. Application #2016-01, David Spangenthal,
4-02 Kenneth Avenue, Block 4322, Lot 8, Zone R-1-3
Corner property. Proposed 6ft. fence in the front yard setback on Willow &
Kenneth where 3ft. fence is permitted as per Section 125-38 Fences and Walls.

Fees have been paid and there is proof of Service.

Mr. Seibel swears in: David Spangenthal (Applicant)
4-02 Kenneth Ave;
Fair Lawn, N.J.

Mr. Seibel notes the application is for a proposed 6ft. fence on a corner property where Corner properties are considered to be two front yards.

Mr. Spangenthal steps forward to state this is why he is here this evening to ask for a variance to allow him to put a 6ft. fence where a 3ft. fence is permitted. Explains he has a small backyard with a small child and also has one on the way and would like to have a larger grass area for play.

Mr. Seibel questions what type of fence to which Mr. Spangenthal testifies it would be a PVC fence.

Mr. Spangenthal states to the Board he had a Site Triangle Plan provided with his application to alleviate any concerns regarding this issue along with his survey.

Discussion and review of survey...

Mr. Spangenthal notes the Borough of Fair Lawn's Engineering Department provided the site plan.

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

Ms. Peck explains the Site plan was provided by the Borough's Engineer, Mr. Wendowsky for the purpose of alleviating any concerns regarding traffic site issues.

Discussion continues....

Mr. Lowenstein (Board Member) questions if there are similar 6ft. fences in the area.

Discussion continues.

Mr. Blecher (Board Member) discusses the possibility of moving the fence back 4ft. back from the sidewalk/property line because of the feeling of crowding on the side of Kenneth Avenue.

Discussion on safety concerns regarding site line, children walking, etc...

Mr. Spangenthal is willing and open to suggestions and amendments to his proposal if need be.

Mr. Seibel (Chairman) asks if he would be willing to move the fence back to be flush with the house to which Mr. Spangenthal responds he would prefer not to move that far back.

No further questions from the Board.

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

Mr. Blecher makes a motion to approve the application with the condition being added: the fence being a minimum of 4ft. back from the sidewalk/property line.

Ms. Baratta seconds the motion.

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

Motion Carries: 4-2
Application Approved.

2. Application#2016-03, John & Kimberly Hackaspker,
358 Plaza Road North, Block 3817, Lot 3, Zone R-1-1
Proposed driveway expansion would have a width of 27' where 22' is permitted
as per Section 125-48.C. parking area design standards.

Fees have been paid and there is proof of service.

Mr. Seibel swears in: John & Kimberly Hackaspker (Applicant's)
358 Plaza Road North
Fair Lawn, N.J.

Mr. Seibel asks Mr. Hackaspker to explain his proposal.

Mr. Hackaspker begins his testimony stating although his driveway is the standard 22ft.,
he is here this evening hoping to get a variance to widen his driveway to 27ft.

Question is asked how far the driveway will be from the neighbor's property line.

Mr. Hackaspker testifies it is approximately 1 ½ ft.

Board Members question if there are any impervious coverage issues.

Mr. Hackaspker testifies there are none.

Mr. Lowenstein questions garage usage.

Mr. Hackaspker states he does not use his garage for any of the cars.

Mr. Lowenstein questions how many cars/trucks he currently owns and why the garage is
not being used.

Mr. Hackaspker explains the garage is very small and narrow.

Discussion continues....

Board Members question the current width of the driveway and clarification on how
measurements were taken.

Different configurations of the driveway are discussed. Could it be widened toward the house rather than the side of the neighbor?

Ms. Hackaspker states they did look at that configuration but aesthetically it would not work. It would look unbalanced.

No further questions from the Board.

Mr. Seibel opens to Residents living within 200ft. from the Applicant. 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. Naveh seconds the motion.

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

Motion Carries:
Application Approved.

3. Application #2016-04, Brian LaRosa,
7-15 4th Street, Block 5511, Lot 30, Zone R-1-3
Corner property. Proposed 6ft. fence in the front yard setback on 4th Street where
3ft. is permitted as per Section 125-38 Fences and Walls.

Fees have been paid and there is proof of Service.

Mr. Seibel swears in: Brian & Michelle LaRosa
7-15 4th Street
Fair Lawn, N.J.

Mr. Seibel asks Mr. LaRosa to begin his testimony regarding his proposal again noting corner properties are recognized as being two front yards.

Mr. Seibel asks Mr. LaRosa if the fence was already put up.

Mr. LaRosa begins his testimony explaining the existing fence was already put up last year, sometime in November and he now wants to extend the fence down more towards the street.

Mr. LaRosa continues. He explains besides wanting the privacy to have family over, he also has two dogs he would like to be able to run around without the worry of them getting away which has happened in the past.

Mr. LaRosa also notes he works for the Town as a Police Officer and has concerns with security. In recent past, he has installed surveillance cameras for security and would also like the fence as another measure of security.

Board Members discuss and review the proposal.

Board Members clarify the location of the fence.

Mr. LaRosa states it will be a 5ft. fence with 1ft. Lattice with mulch and planting in front of the fence.

No further questions from Board Members.

Mr. Seibel opens to Residents living within 200ft. from the Applicant.

Mr. Seibel swears in: Laraine Mielko & Linda Bento (Sisters)
7-07 4th Street
Fair Lawn, N.J.

Ms. Mielko begins by stating she has real issues regarding safety with this fence being put in the location proposed. It will obstruct the view of the sidewalk and street when trying to back out of her driveway. She has concerns with not seeing pedestrians or children playing, etc....

Ms. Mielko explains her driveway is on an incline and in the ice and snow has a real issue backing out...

Discussion....

Ms. Bento, (Ms. Mielko's sister) would like to submit pictures of the property to the Board Members to show how the fence would be an obstruction.

Zoning assistant, Cathy Bozza hands exhibits out to Board Members. (Pictures show existing fence and proposed fence done with marker)

Ms. Bento referencing the pictures voices her concerns with safety and not being able to see children or cars coming backing out of the driveway when she picks up her sister, also noting how it would also obstruct the streetscape view from the window.

Discussion continues.....

Ms. Baratta (Board Member) asks for clarification on the distance of the fence from the sidewalk.

Mr. LaRosa testifies it will be almost 5ft. back from the sidewalk.

Heavy discussion continues....

Mr. Seibel (Chairman) asks Mr. LaRosa if he would consider moving the fence even further back up toward the house.

Mr. LaRosa testifies aesthetically it would not work; it would look unbalanced with the rest of the property.

Mr. Rosenberg (Board Attorney) enters the pictures into evidence.
Exhibit O-1, consisting of 4 pages of Photographs /8 Photos.

Mr. Seibel thanks the Residents for their comments and will take them under consideration.

No further questions from the Board.

Mr. Seibel opens once again to Residents living within 200ft. of the Applicant. 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.

Mr. Naveh 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.
Application Approved.

Ms. Mielko and Ms. Benton would like to know where to go to appeal.
Ms. Peck (Assistant Zoning Officer) tells them the information.

4. Application#2016-05, Robert Olko,
13-23 2nd Street, Block 5622, Lot33, Zone R-1-3
Placement of a 4' Concrete walkway behind shed is 0' from the property line
where 4' is required as per Section 125-33 accessory buildings structures and
uses.

Fees have been paid and there is proof of service.

Mr. Seibel swears in: Robert Olko, (Applicant)
13-23 2nd Street
Fair Lawn, N.J.

Mr. Olko testifies he is here tonight looking for a variance for a 4ft.concrete walkway he placed behind his shed right up next to the retaining wall which belongs to his neighbor and was not aware of a setback requirement. The retaining wall is in very poor condition and is pitching towards his property. He placed the walkway with the hope of supporting the wall of his neighbor from collapsing onto his property.....speaks to the issues he is having with his neighbor. They are not on a friendly level...

Discussion...

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

Ms. Peck explains the walkway was brought to her attention by the neighbor who owns the wall and the reason why the applicant is here this evening is because the walkway is right up to the property line with 0' setback.

Ms. Peck states when the Building Inspectors went out to the site to check the shed, they missed the walkway which was up to the property line.

Discussion continues...

Board Members question the neighbor's wall height.

Ms. Peck states the wall is at least 6ft. high and pitching away from the property towards the applicant's property. The applicants put the walkway down in the hopes of supporting the retaining wall and keep it from collapsing onto his property not realizing he did anything wrong because he was approved by the Inspectors...the neighbors have an ongoing dispute regarding property lines.

Ms. Peck testifies she had spoken to the neighbor and said she would be attending tonight's meeting, although she does not see her.

Board Members discuss the situation amongst themselves determining there must be water under the wall causing the buckling of the wall. Recommendation is for both neighbors to work together and have a Professional come and fix the wall.

Discussion continues...

Mr. Blecher (Board Member) suggest removing the concrete first and then have the Professional come over and access what is needed to correct the issue of the pitching retaining wall.

Neighbor dispute is discussed...one will not allow the other on their personal property. Enforcement discussed for neighbor owning the wall because if it collapses, there is a bigger issue.

Mr. Rosenberg (Board Attorney) interjects to clarify to the Board Members, the applicant is here seeking approval for a variance for a walkway which is at a 0' setback to the

property line. The Board's only jurisdiction is to do this, not to get involved in a property line dispute.

Discussion continues....

Ms. Peck (Assistant Zoning Officer) clarifies for the Board Members the applicant and the Zoning department had a misunderstanding when obtaining the permit for the shed. The applicant believed he was obtaining permission for both the walkway and the shed when applying for the permit.

Board Members discuss the necessary of an impervious coverage variance to the application and question how much overage there is with the walkway being added.

Ms. Peck does the calculation and testifies the impervious would be at the minimum of .7% which would make the total 35.7%, the requirement being 35%.

Mr. Rosenberg (Board Attorney) states the impervious variance would have to be included if approved.

No further questions from Board Members.

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

Discussion amongst Board Members regarding the additional variance...
Heavy discussion ensues.

Mr. Rosenberg advises the Board Members to consider reliance, etc...

Mr. Lowenstein makes a motion to deny the application.
No Second motion. Motion fails.

Mr. Naveh makes a motion to approve the application with the additional variance of impervious coverage.

Ms. Perchuk seconds the motion.

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

Motion Carries. 5-1
Application Approved.

5. Application#2016-06, Thomas Ling,
3-27 Grunauer Place, Block 3195, Lot 38, Zone R-1-3
Proposed 33'x17' in-ground would increase the impervious coverage from 35.7% to 41.6% where 35% is permitted as per Section 125-122 Schedule of area yard and building requirements.

Fees have been paid and there is proof of Service.

Mr. Seibel swears in: Thomas & Betty Ling (Applicants)
3-27 Grunauer Place
Fair Lawn, N.J.

Mr. Ling begins his testimony. He would like to put in an in-ground pool. He has lived in the same home for 25 years and an above ground pool was there when he purchased the home. His children love to swim.

Mr. Lowenstein (Board Member) questions Mr. Ling on the calculations of the pool and who did the plan.

Mr. Ling replies the Professional Pool Company did the calculations for the In-ground pool.

Mr. Lowenstein notes the large lot and also appreciates the removal of some walkway in an attempt to minimize any impervious coverage issues.

The size of the pool is discussed. Mr. Ling testifies it is the smallest in the choice of pools.

Mr. Ling testifies there will be a 3ft. wide walkway around the pool.

No further questions from the Board.

Mr. Seibel opens to Residents living within 200ft. from the Applicant. 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.

Mr. Lowenstein makes a motion to approve the application.
Mr. Naveh seconds the motion.

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

Motion Carries.
Application Approved.

Memorialized Resolutions:

1. 2015 Annual Report.

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 \$866.66 for Professional Services rendered on February 22, 2016

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

VOTE: All Present- AYE

Minutes:

Ms. Baratta makes a motion to approve the minutes of January 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: 9:00pm

Respectfully submitted,

Cathy Bozza
Assistant to Zoning

