

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENTS
MEETING MINUTES
OF SEPTEMBER 26, 2016**

Following are the Minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on September 26, 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: Ms. Baratta, Ms. Perchuk, Mr. Lowenstein, Mr. Puzio, Mr. Naveh, Mr. Lazarev & Mr. Seibel, ***Present.***

Absent: Mr. Racenstein, Mr. Blecher, 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 #2016-36, Antone & Yolanda Mayweather ,
12-01 12th Street, Block 4606, Lot 65, Zone R-1-3,
Corner Property- Proposed 6ft. fence in the front yard setback where only 3ft. is permitted per Section 125-38.A. Fences & Walls.

Fees have been paid and there is proof of Service.

Mr. Seibel swears in: Yolanda Mayweather (Applicant)
12-01 12th Street
Fair Lawn, N.J.

Ms. Mayweather begins her testimony. She is seeking a variance for a 6ft. fence on a corner property where she is only allowed 3ft. She explains a good portion of why she wants to install this is because she has privacy issues. You can see right into her backyard and because she is close to the High School, students absentmindedly throw cigarette butts and garbage on her property. She also has concerns because she has a 4yr. old daughter and there are a lot of car accidents in this area on the corner.

Mr. Seibel (Chairman) questions the type of fence she is proposing.

Ms. Mayweather testifies it will be a solid white 5ft. fence with 1ft. of Lattice.

Mr. Lowenstein (Board Secretary) would like clarification on the Survey submitted as to where the fence is going based on the color coding.

Discussion continues....

Mr. Seibel comments he does see issues along this corner and notes the reasoning behind Ms. Mayweather request for a fence. He has no concerns regarding the line of sight being an issue at all.

Ms. Mayweather is questioned if the Shrubs will be removed to which she testifies they will be.

No further questions from Board Members.

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.

Ms. Baratta makes a motion to approve the application.

Ms. Perchuk seconds the motion.

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

Motion Carries.

APPLICATION APPROVED.

2. Application #2016-37, Daniel & Mila Meehan,
27-10 Merritt Place, Block 3501, Lot 5, Zone R-1-2,
Removal of existing detached garage. Proposed add a level and addition which would create an attached garage. Proposal would maintain the existing side yard setback of 6.15' where 10' is required. Would decrease side yard from new attached garage from 17.1' to 5' where 10' is required. Would increase the building coverage from 21.2% to 26.3% where 25% is permitted. Would increase the impervious coverage from 30.7% to 36.3% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements. Would increase FAR from 22.8% to 46.1% where 40% is permitted as per Section 125- 57.D (1) (d) [1]

Fees have been paid and there is proof of service.

Mr. Ira Levine (Attorney for the Applicant) steps forward. After speaking briefly to the application, brings forth his 1st witness, Mr. Daniel Meehan (Applicant)

Mr. Seibel swears in: Daniel Meehan
27-10 Merritt Place
Fair Lawn, N.J.

Mr. Rosenberg (Board Attorney) before proceeding with testimony would like to clarify; because of the D-4 Variance, the application will require 5 affirmative votes.

Mr. Meehan begins his testimony stating he owns a small Cape Cod style home with 2 Bedrooms/1 Bathroom. The house was owned by his Grandmother at one time and he purchased it from her as a means to help her. It wasn't an ideal situation when they moved in but explains the dynamics have changed. He started a family and is looking to enlarge the home.

Mr. Meehan proceeds to speak of the proposal. Demolish and take down the existing garage, etc.....

Discussion....

Mr. Kevin Puzio (Vice-Chair) asks Mr. Meehan if he considered other options in the design of the home.

Setbacks are discussed....

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

Discussion on hardship...width of home is what is causing the issue.

Discussion continues.....

No further questions from Board Members of this witness.

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 the witness, seeing none.

Mr. Seibel closes this portion.

Mr. Seibel swears in: Mr. Jacob Solomon (Architect)
14-25 Plaza Road
Fair Lawn, N.J.

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

Mr. Rosenberg (Board Attorney) clarifies that Mr. Solomon is testifying as an Architect and not as a Planner.

Mr. Solomon begins his testimony speaking to the non-conforming size of lot and its hardship.

Discussion on removal of the portion of driveway & detached Garage....

Mr. Solomon continues his testimony detailing the proposal. Setbacks reviewed... Proposes to add a level/addition which would include an attached Garage...continues with the interior plans for the home, detailing its open floor plan.

Mr. Solomon testifies he see no negative impact to the neighborhood with this proposal, it's within character of surrounding homes, no obstruction to Air or Light...

Ms. Baratta (Board Member) questions a picture submitted for clarification.

Mr. Rosenberg requests the picture be submitted as Exhibit A.

Exhibit A- Picture submitted this evening taken by Mr. Solomon.

Discussion on setback from Neighbor's property line...

Ms. Baratta notes she does not see pictures of other homes in the neighborhood with a home of this size. In her opinion, she sees the proposal before her as the neighbor next door seeing nothing but a big wall very close to her property line affecting the quality of life to surrounding neighbors.

Discussion begins with Mr. Solomon (Architect) on ways to take the size of the home down.

Mr. Seibel (Chairman) questions the square footage of the home once completed.

Mr. Solomon testifies it would be approximately 2600sf...depth of lot is discussed, noting the hardship.

Mr. Rosenberg (Board Attorney) reiterates with Board Members the Hardship Ordinance and what the Board Members in making their decision will have to weigh in the application...lot size, impact to the surrounding homes, etc....

No further questions from Board Members.

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

Mr. Seibel swears in: Joyce M. Smith (Attorney)
3 Ackerson Avenue
Pequannock, N.J.

Ms. Smith is here this evening on behalf of her client, Ms. Susan Thomasson residing at 8 Laurel Road which is right behind this home.

Mr. Seibel swears in: Susan Thomasson (Owner of neighboring home)
8 Laurel Road
Fair Lawn, N.J.

Ms. Thomasson explains she lives behind this home and explains this house as proposed would block all light and her view outside...

Ms. Smith (Attorney) questions Mr. Solomon on the current setbacks of the existing garage. She continues to question Mr. Solomon on the hardship aspect of the application...speaks to the Zoning map and size of the surrounding lots, noting 80% of the lots surrounding the area are the same lot size.

Ms. Smith continues...questions the existing square footage of the current 2 Bedroom house. 400sf. Air, Light and Space are discussed. Setbacks are questioned.

Mr. Solomon (Architect) reiterates the side yard setbacks, which would be 23 1/2 on right side and 12ft. on left side.

Ms. Smith opinion differs from Mr. Solomon's testimony and insists this would have an impact on her client and his neighbor. She questions why the proposed garage couldn't be moved to the back.

Discussion/ Board Members review and suggest other options with Mr. Solomon.

No further questions from Ms. Smith of this witness.
No further questions from Board Members.

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

Mr. Seibel opens to the General Public with questions of the Architect, seeing none,
Mr. Seibel closes this portion.

Mr. Seibel questions Mr. Solomon on the Attorney's suggestion. Could the garage be moved to the back?

Discussion on Zoning Chart Calculations/Impervious, etc..

Ms. Peck (Assistant Zoning Officer) clarifies the attached garage would be countable impervious-with the detached garage, the driveway would be exempt from impervious coverage calculations...

Discussion continues...

Mr. Lazarev (Board Member) questions the impact of the neighboring home...

Ms. Thomasson steps up to the podium to reiterate how much this proposal would impact her quality of life. The home would block all the light and view from her window. She feels this house is too big and would be nothing but a negative impact.

Ms. Thomasson continues. The windows of her home would be looking at this 2 story high new addition 11ft. away. Concerns regarding property value in the future.

Mr. Ira Levine (Attorney for the Applicant) questions Ms. Thomasson as to where she is presently living?

Ms. Thomasson testifies she is currently living in Demarest, N.J. and the home in Fair Lawn is currently being rented out.

Mr. Levine questions her concern of the property value.

Ms. Thomasson states the home in Fair Lawn belongs to her & her husband, who grew up there and whether or not they live there or not, it is still their home and should have no bearing on the impact this proposal would have on the quality of life.

Discussion continues...

Mr. Seibel defers to Mr. Rosenberg (Board Attorney) for his Professional opinion as to whether or not property value could be considered in a vote. Mr. Rosenberg reviews the D-4 variance with Board Members and states they can consider all aspects including the Property Value.

Discussion continues.....

Mr. Seibel (Chairman) would like to move on from this subject.

Mr. Solomon (Architect) clarifies the setbacks and discusses reconfiguration options discussed.

Mr. Levine (Attorney for the Applicant) asks Mr. Meehan (Applicant) to come forward.

Mr. Levine asks Mr. Meehan to describe how many homes in the surrounding area or within a 1 block radius have attached garages.

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. Seeing none,
Mr. Seibel closes this portion.

Ms. Baratta (Board Member) would like to make a comment. Speaks to her time on the Planning Board and how much time, hard work and effort went in the Ordinance regarding the FAR requirements. The Board did not create this haphazardly-there is a reason behind them....

Mr. Lowenstein (Board Secretary) asks the Architect, Mr. Solomon if there is any way he and his Client, Mr. Meehan could reduce the FAR?

Discussion continues on options and ideas.

Mr. Seibel (Chairman) feels the design of the home is a little much for the size of the lot...speaks to the Master Bedroom-discussion on ways to eliminate square footage...

Discussion continues....

No further questions from Board Members.

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

Ms. Smith (Attorney for Ms. Thomasson) would like to bring up a witness.

Mr. Seibel swears in: Peter Steck (Planner) on behalf of Ms. Thomasson's property
80 Maplewood Ave,
Maplewood, N.J.

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

Mr. Steck begins his testimony giving some of his background and introduces a series of pictures- hands out pictures.

Mr. Rosenberg (Board Attorney) enters the pictures into evidence as Exhibit B.

Exhibit B-Series of pictures prepared by Peter G. Steck/taken on September 26, 2016 consisting of:

1. Pg. 1- Google Views of Ms. Thomasson's home and the Applicant's home facing East, South and North & West.
2. Pg. 2- Analysis of the existing and proposed setback encroachments.
3. Pg. 3-Aerial Photograph from Bing Maps showing the Meehan property.
4. Pg. 4-Portions of June 23, 2014 Master Plan

Mr. Steck reviews the pictures in detail with Board Members. Speaks to the major increase in the FAR, how it substantially impairs the Zoning Plan & the Master Plan and how it speaks to the concern of homes being of Master Size...

Testimony continues...he objects to this proposal, states this is not a hardship, it is not a unique lot and violates both side yards & front yard. Mr. Steck continues to state his client's backyard will be facing this addition. Points out to the Board Members there are many alternatives the Architect could do.

Mr. Steck testifies in his opinion, there will be substantial detriment to the Public good and feels this applicant has not satisfied his burden of proof in this application.

Mr. Steck has no further testimony.

No further questions from Board Members.

No further questions from the Applicant or Attorney for Mr. Steck.

Mr. Levine (Attorney for the Applicant) requests an adjournment for this application to speak with his Client and review other options.

Adjournment Granted.

***APPLICATION IS CARRIED TO OCTOBER 24, 2016
NO FURTHER NOTICE REQUIRED.***

3. Application #2016-38, Colette Martin,
1-15 28th Street, Block 3309, Lot 30, Zone R-1-3,
Expansion of a non-conforming structure. Ordinance 125-32C(4) permits expansion without variance provided requirements are met existing nonconforming side or front yard setbacks are not less than 50% of the required side or front yard setbacks, but no closer than 12feet to the existing dwelling on the adjoining property. Proposed expansion would require a C-1 variance as per Section 125- 57.D(1)(c)[1] Property is 5000sf where 6500sf is required. Proposed addition would increase the building coverage from 29.3% to 30.6% where 25% is permitted. Would maintain the existing side yard setback of 4' where 8' is required. Would maintain the existing front yard setback of 7.3" where 25' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Seibel swears in: Peter Vahala (Professional Architect & Planner)
54 Jackson Avenue
Woodland Park, N.J.

Mr. Vahala is here on behalf of the Applicant, Colette Martin and will be testifying as both Architect & Planner.

Mr. Seibel certifies Mr. Vahala as both Architect and a Planner with no objections from the Board.

Mr. Seibel swears in: Colette Martin (Applicant)

Mr. Vahala reviews the proposal. Speaks to the existing non-conforming lot, reviews relief sought-variances reviewed; - undersized lot, D-4 variance, building coverages, etc... Current structure is a 2 Bedroom/2 Bath, his client is looking to create a 4 Bedroom/4bath home.

Mr. Vahala details the proposal... One story structure with basement, attic...

Mr. Rosenberg (Board Attorney) interjects testimony to note the D4 variance was not noted.

Discussion...

Mr. Rosenberg notes the members of the Public have the right to know a D-4 variance is being sought.

Discussion on whether a D4 variance is needed....

Ms. Peck (Assistant Zoning Officer) asks for a 5 minute recess to speak with Mr. Vahala and review zoning calculations to determine if a D4 variance is necessary.

Request granted.

5 Minutes Recess:

Mr. Seibel calls the Meeting back to Order.

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

Ms. Peck after speaking with Mr. Vahala determines the application will still require a D-variance and will have to re-notice.

Discussion....

Mr. Vahala (Architect) agrees to the carrying of the application to the October 24th meeting.

APPLICATION CARRIED TO THE MEETING OF OCTOBER 24, 2016 WITH RE-NOTICE.

Mr. Seibel proceeds to Order of Business:

Minutes:

Ms. Baratta makes a motion to approve the minutes of **August 22, 2016** and Ms. Perchuk seconds the motion.

VOTE: All Present- **AYE**

Memorialized Resolutions:

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-Proposed 2nd floor and rear addition- **Approved.**

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

VOTE: All Present- **AYE**

2. Application#2016-34, Nicholas Nobre, 14 Margaret Court, Block 1303, Lot 16, Zone R-1-2-Proposed Driveway Expansion- **Approved**

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

VOTE: All Present- **AYE**

3. Application #2016-35, Doris M.Ceely/Agent: Ibrahim Soliman, 12-47 5th Street, Block 5615, Lot 18-19, Zone R-1-3- Current vacant lot-Proposed new one family- **Approved.**

Mr. Puzio 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 September, 2016.

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

VOTE: All Present- **AYE**

Adjourn:

Mr. Lowenstein makes a motion to adjourn and Mr. Naveh seconds the motion.

VOTE: All Present: **AYE**

Time: **8:52pm**

Respectfully submitted,

Cathy Bozza
Assistant to Zoning

