BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Special Meeting
Of May 3, 2007

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's special meeting held on **Thursday, May 3, 2007**.

Chairman Scott Levy called the regular meeting to order at 7:30 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present were: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Diner, Mr. Sacchinelli, and Mr. Levy.

Absent were: Mr. Nakashian, Mr. Charipper, Mr. Salerno and Mr. Blecher.

Mr. Meer arrived at 7:45 p.m.

Also in attendance were William Soukas, Board Attorney; Paul Azzolina, Board Engineer; Mark Katryniak, Board Traffic Engineer; Cheryl Bergailo, Board Planner; Ann Peck, Assistant Zoning Officer; Karen Kocsis, Court Reporter and Carol LoPiccolo, Zoning Board Clerk.

<u>Commercial Old Business</u>:

1. Application #2007-025, Fair Lawn Fire Company No. 1, Inc.
   12-34 George Street, Block 5611, Lots 19-24, Zone R-1-3
   The proposed addition to the existing Fire House would have 3 stories where only 2 ½ are permitted. Bulk variances for front yard setback, rear yard setback and impervious coverage as per Section 125-12 Schedule of area, yard and building requirements. The proposed height of 35.91' where 30' is permitted requires a Use and Site Plan Variance as per Section 125-57.D.(d)(1). Parking variance relief is required as per Section 125-48A(2). Subdivision of lot requires approval as per Section 125-6.

   Mr. Levy asked what the paver patio area would be used for and what is the square footage. Mr. Ives [architect] stated that it would be 400 s.f. Mr. Levy asked about the west side of the structure and how much more square footage there would be. Mr. Ives stated that another 385 s.f. would be the dormitory; the workout area would be 492 s.f.; and 400 s.f. would be the lockers and the bath.

   Mr. Levy asked if the facilities up there could be brought down to the paver patio area. Mr. Ives responded that it is possible.

Mr. Karas asked aside from the zoning issues, that there are 3 other issues that are premature in that the restricted covenant of the deed, the funding and the area designated for the River Road parking. Mr. Karas stated that the southern parking lot of the Fire Co. and a part of the utility area could be used for cooperative parking and there was a meeting with the George Street neighbors who were initially against it but then agreed as long as there would be no egress on George Street and a wall of shrubbery along George Street. That never came to be because the Fire Co. was opposed to that idea. In addition, you would have no means of egress to George Street. River Road has never been successful in obtaining cooperative parking. The parking proposed now may never come to be. What impact would that have on the application. Mr. Karas also asked about funding. That question was asked at a Council meeting on April 10. Mr. Karas continued in that if there is no funding, does this entire application depend on that. Mr. Karas stated that one of the Council members stated that an application might be needed to go to Court to go against the Covenant.

Mr. Ahearn responded that this application is before the Zoning Board and how it is funded is irrelevant. The River Road aspect of the parking because of meetings that the Fire Co. had with the prior governing body is between the Borough and the property owner. There has to be something to give to the Borough of equal value and the northerly parcel is a parcel that was given to the Fire Co. with deed restrictions and if they ever stopped using it for parking it would revert back to the Borough. The southerly parcel does not have deed restrictions. This application is here for a D-6 variance which also gives the Zoning Board to approve the subdivision. Putting a home on the northerly parcel is better from a planning standpoint, which abuts the residential area. The southerly parcel has no houses. Rather than do a land swap, the applicant would go to the Planning Board for a subdivision, and build a home on the southerly lot. Rather than do that, the applicant wants to do a land swap. The applicant was asked to show the concept of the River Road parking at previous discussions. The fire company has no position on whether to provide River Road parking or not.

Mr. Karas stated that the applicant has an alternate plan then. Mr. Ahearn responded yes.

Mr. Soukas stated that this would require Council approval for the deed restrictions and land swap. Mr. Ahearn responded that if that fails they would come back before this Board to proceed with the subdivision and build a single family home to the south.

Mr. Levy stated that there was a concern over the height and what could be changed to lower the height. Mr. Ives presented a color rendering **[Exhibit A-6]** of the Fair Lawn Fire Department dated May 3, 2007 which depicted the proposed fire house with a height of 34.5' to the mean and an elevation showing a fire house

with a flat roof with a height of 30' to the top of the roof. Mr. Ives described the photo and felt the flat roof building would look like the one on Route 208, but with the higher proposed building it looks more residential. Mr. Ives stated that the architecture is what brought this application before the Zoning Board because of the height, otherwise this application would be before the Planning Board. The measurements were taken from the street.

Mr. Levy stated that there are no Ordinances that dictate what types of materials are used and that the original proposal is strictly a design element. Mr. Ahearn stated that the applicant is seeking relief for height for a better looking building. Mr. Levy stated that the variance is for the height, not for the materials used. Mr. Ahearn stated that this is a design choice.

Mr. Ives stated that if a flat roof building was used there would be mechanical equipment on the roof but with the sloping roof, the equipment would be concealed in the roof which is an advantage. Mr. Ahearn asked if there was a difference of the sound that would be given off if the equipment were on the roof. Mr. Ives stated that it would have to adhere to the Ordinance.

Mr. Karas asked if the center of the road is 1 1/2' lower than the floor slab. Mr. Ives responded yes. Mr. Karas asked about the 2nd and 3rd floor that indicates that each one is 9' high and if there was any reason why it couldn't be lowered to 8'. Mr. Ives responded that the 3rd floor has a workout room and wouldn't be proper, and the 2nd floor has large rooms and typically the ceiling is higher.

Mr. Meer referred to the drawing presented and the proposed firehouse, asked how much higher is the peak from the rest of the roof. Mr. Ives stated 9'. Mr. Ives stated that visually a peak against the sky disappears into the horizon.

Mr. Meer asked if the peak were lowered by 3', would this application then be in compliance. Mr. Ives didn't think so and wouldn't work structurally.

Ms. Spindel asked if the additional height would adversely effect the surrounding homes by impeding light. Mr. Ives responded that he didn't think it would be an issue, but it would block a little sun for a few houses. Mr. Ahearn asked if a permitted building would also impact the light. Mr. Ives responded yes.

Mr. Newman asked how far outside of the footprint could this go without a variance. Mr. Ahearn stated that the engineer would testify to that. Mr. Newman stated that if the proposed building were expanded outside of the footprint with a 1 story level what would that do with the height. Mr. Ahearn stated they could not do that due to easements on the property. Mr. Newman stated that the building could be built larger and the height of the roof could be lowered.

Ms. Bergailo asked to the north of the building the access aisle between the parking spaces is narrower than the requirement and could the northerly section be compressed at all. Mr. Ives felt it could possibly be reduced by 2'.

Cheryl Bergailo, Mark Kataryniak and Paul Azzolina were all sworn in at this time.

Mr. Soukas asked if hardship is part of this application. Mr. Ahearn stated that the Planner would answer that.

Mr. Levy opened the meeting to the public within 200'. The following members of the public came forward and were sworn in:

Magdalena Castiglia, 12-30 Edward Street. Ms. Castiglia asked if the other proposed rendering of the flat roof building was presented to the Fire Department as far as cost and does facilitate a green roof and is beneficial. Mr. Ahearn objected to Ms. Castiglia's question. Ms. Castiglia asked if the proposed dwelling would be a conforming house. Mr. Ahearn stated that the design of the home is not required at this time but it would conform.

Arlene Rubenstein, 28 Rutgers Terrace. Ms. Rubenstein asked if the aesthetics of the proposed building could be done on the permitted building so that it would look prettier. Mr. Ives responded yes.

Pamela Coles, 13-34 George Street. Ms. Coles stated that she never received a notice from the Fire House regarding their previous open house. Mr. Ahearn stated that did not have a bearing on this application. Ms. Coles asked about the southerly property of the possibility of it being sold with a house on it, and was it always a proposal. Mr. Levy stated the question would be answered by the engineer. Ms. Coles asked if the permitted rendering would the height be 28.3' which is actually higher than what is proposed. Mr. Ives stated that is a parapit. Ms. Coles stated that the 24' line of the proposed, if you put a peak on that it would require then a variance of 3'. If the 4 windows were eliminated, would it be possible to put the peak there. Mr. Ives did not think it would not look good architecturally. Mr. Levy asked if the windows were removed, would that help facilitate the lowering of the peak. Mr. Ives responded yes.

Mr. Harvey Rubenstein, 28 Rutgers Terrace. Mr. Rubenstein asked if there were windows facing River Road and would it damage the idea of living space if the windows were eliminated. Mr. Ives thought it would effect the usage of the building and having the windows would make the building look nicer.

Mr. Frank Baldino, 12-62 3rd Street, asked if it were possible to drop the whole structure and spread it out. Mr. Ives responded yes. Mr. Baldino felt a nicer design could be done and lowered. Mr. Baldino asked if the mechanical

equipment would be in the peak area. Mr. Ives stated that it would be above the work out area. Mr. Ives stated that the building would not look right by just lowering the peak.

Ms. Dorothy Hamilton, 12-26 Hamilton Street, asked if the permitted building were done, would there still be a weight room and an elevator and is it necessary to have an elevator. The permitted building is a 2-story building. Mr. Ives responded yes.

Mr. Levy closed the meeting to the public.

Mr. Ahearn brought forward Ms. Katherine Gregory, Professional Planner of Gregory Associates and was accepted as an expert witness.

Ms. Gregory stated that the firehouse is in a R-1-3 zone and presented a photos of the area marked as **Exhibit A-7**. The photos depicted the area and existing conditions and surrounding neighborhood. Ms. Gregory stated that this is a D-6 variance and that 30' is permitted in the zone and 35.9' is being sought. There is a desire for a pitched roof and is more residential in nature. The homes in the area all have pitched roofs. The only hardship is that the applicant cannot go out due to easements. 700 s.f. of the footprint has been eliminated and is now conforming in building coverage. There is a benefit to the residential property. Ms. Gregory continued that when you look at a building, sight lines are very important and when taken into account, a pitch roof is important to the site line. Ms. Gregory referred to Exhibit A-6. The side elevation to the proposed residential structure there would be over 48.7' to the side of that neighbor. Given the architecture, the area and the height are mitigated, and the firehouse shields the residential area from River Road. Ms. Gregory read from MLUL [specifically the Coventry case] and felt this application was an inherently beneficial use and this promotes the general welfare and this fits a need for a larger fire truck that is coming. There are more regulations and requirements that require additional space. The fire company is looking to have this building fit in with the neighborhood. The 3rd story is only there due to a pitched roof. This application also adheres to light and space and if a permitted building were done, that would impact light more. The proposed building is a dramatic improvement to the area. There is a front yard of 19.7' - variance required and the rear yard would be 12.6' which is another variance, impervious coverage would be 99.18% as opposed to 99.3% currently existing. The proposed would conform with building coverage. Ms. Gregory felt there was no substantial detriment to the public good or the Master Plan. The benefits outweigh the negatives in the application.

Mr. Karas asked if the height of 40' for a municipally operated building would be applied. Ms. Gregory stated that it was decided that they had to adhere to the R-1-3 height of 30' to the mean. Ms. Bergailo stated that at the last meeting it was

determined that this is not a municipally operated building and they have to adhere to the R-1-3 height.

Mr. Newman asked if the parking plan would be effected by 1 or 2 tree islands. The engineer would answer that later.

Mr. Soukas stated that the inherently beneficial use would not have any determination in this case. Mr. Soukas stated that Spring Lake Heights 375 N.J. Super. 41, where the Appellate Division set forth the standards for D-6 variances. and why the Coventry case would not apply here. Ms. Gregory stated that special reasons could be proven. Mr. Soukas read the Spring Lake Heights case and asked if that would apply to this application. Ms. Gregory stated they are not stating there is a hardship. Ms. Gregory stated there are easements on the property which is a constraint. Mr. Soukas stated that the easements did not determine the need for the height. Ms. Gregory responded that there is no hardship but the proposed fits better in the neighborhood and the impact is actually less with open air and space. Mr. Soukas asked the standard of the D-6. Ms. Gregory reiterated her previous testimony about the variances being sought and this whole application makes sense from a planning and architectural standpoint.

Mr. Karas asked if the fire company could not work out the covenant of the northern lot and what would happen if the fire company had to sell off the southerly lot. Ms. Gregory stated they would make the southerly lot to conform and it would be developed, but it wouldn't be as aesthetically pleasing, and the proposed plan makes more sense for the streetscape.

Mr. Levy asked about the articulation of the lines of the façade. Ms. Gregory responded that the proposed rendering is better than the required rendering. Mr. Levy asked why the work out room is necessary. Ms. Gregory responded that it would quicken the response time. Ms. Gregory also stated that the requirements of the fire company are needed to be modernized. Ms. Gregory stated that the height does not play a negative height. Mr. Levy asked about the benefits to River Road. Ms. Gregory stated that the building would be seen from River Road. Mr. Levy talked about the redevelopment of River Road. Ms. Gregory felt this project would benefit River Road and the architecture would carry over to River Road and would have a positive impact. Mr. Levy asked about the heights of the residential houses in the area and if the height of 43' of the fire company would stick out in the residential neighborhood. Ms. Gregory stated that it would stick out but is such an improvement over the building that is currently there now, but does fit in with the character due to the architecture. The firehouse borders a commercial zone as well and would not be a detriment. Mr. Levy asked if there were any other houses or structures that exceed the height. Ms. Gregory did not think so, but couldn't answer for sure. Mr. Levy asked about building coverage in the area that exceeds. Ms. Gregory did not know. Mr. Levy asked if the

aesthetics of the inclusion of trees and landscaping would scale down the size of the structure. Ms. Gregory agreed that it would.

Mr. Newman asked if Ms. Gregory were familiar with the Radburn building. Ms. Gregory was not.

Ms. Bergailo asked if there was going to be testimony about the under sized lot to the south. Ms. Ahearn referred to Exhibit A-2 and stated that the site engineer would testify to that and if the governing body does not ask for the River Road parking, then there would have to be an amended site plan. The southerly subdivision is not being asked for at this time.

Mr. Levy opened the meeting to the public within 200' and the following sworn members of the public came forward:

Ms. Castiglia referred to the 99% impervious coverage and is there going to be anything done about run-off. The tallest structure on River Road is 33' and predominantly what is on River Road are old bungalow style homes that have been converted. Ms. Castiglia asked if coming from the other direction there is a substantial difference between the firehouse and the bungalows. Mr. Levy asked if Ms. Gregory was aware of the proposed River Road Development. Ms. Gregory responded no. Mr. Levy asked what is the relationship between the height of the existing structures to the proposed. Ms. Gregory stated there would be no impact.

Ms. Castiglia asked if it has been considered to have trees line the back of the building. That question would be answered by the engineer. Ms. Castiglia stated that would help absorb water. Ms. Castiglia stated that the proposed home that would be built as previously testified to shield, that landscaping could be used to shield instead of home.

Robert Baines, 12-48 George Street, stated the building is 45' to the top of the peak. Mr. Levy stated that it is previously testified as being 43'. Mr. stated that the whole area is 24' high and the proposed would overpower the area.

Ms. Coles asked about the subdivision and proposed home would have to be built to the ordinance of 30' in height. Ms. Coles stated the 12.6' setback of the rear of the fire house and the 19.7' setback in the frontage, and wouldn't the firehouse completely over shadow the proposed house. Ms. Gregory stated the distance between the two structures would be 48.7'. Ms. Gregory stated the distance is so much more that it wouldn't overshadow the area. Ms. Coles stated the existing structure on construction on River Road casts a shadow and this would also cast a shadow. Ms. Coles asked if the property to the north is owned by the fire company. Mr. Ahearn responded yes. Ms. Coles stated that the firehouse could not build to the left because of underground streams and given the 99%

impervious coverage what would flooding be like. The engineer would answer that question. Ms. Coles asked if the impervious could be reduced to the 35%. Ms. Gregory responded no. Ms. Coles stated that as a resident she could not be allowed to have 99% in coverage.

Ms. Castiglia stated that the proposed house is bringing more vehicles into the neighborhood and there is a shortage of parking for the neighborhood. The homes directly across the street has visitors, there is not enough parking.

Mr. Harvey Rubenstein stated that if a building were allowed in the northerly lot there would be no bulk variances required. Ms. Gregory stated that is speculative and would not effect this plan. Mr. Rubenstein asked if the property is a conforming lot to the south. Ms. Gregory stated that it is nonconforming currently, but it could be created if the northerly portion is denied for the subdivision. Ms. Gregory stated that it makes more sense to have the house to the north. Mr. Rubenstein asked if the buildings on River Road that are to the north to the firehouse would there be more shadowing. Ms. Gregory did not do a study of those buildings, but having rear yard setbacks is to provide for light and space.

Mr. Levy asked if the height on any structure on River Road would not add any shadowing to the firehouse building. Ms. Gregory agreed it would not. Mr. Rubenstein asked if redevelopment is taken into consideration. Ms. Gregory stated a study would have to be done.

Mr. Joseph Landi, 7-11 Hopper Avenue came forward and was sworn and asked if considerations have been taken. Mr. Landi stated there is a severe obtrusion of buildings that are substantially higher against a residential home. Ms. Gregory stated that the only impact this building would have would be to the neighbor to the side and the new lot that is being created. Mr. Landi asked about the work out room that would tend to have a higher degree of occupancy that there is currently there now. Mr. Landi stated that due to the increase, would that have an impact. Ms. Gregory stated there would be more people on the site and there is a limited amount of time that the firefighters can go to the firehouse and the impact would not be detrimental.

Lenny Hrinuk, 17-04 Parmelee Avenue, came forward and was sworn and stated that the testimony indicated the proposed building would be more aesthetically pleasing and wanted to know if this would increase the value of the surrounding homes. Ms. Gregory felt it would not be a detriment.

Ms. Bergailo asked if extending the fence along the rear property line would be beneficial. Ms. Gregory stated it could be dependent upon the proposed subdivision.

Mr. Newman asked if studies have been done in the past about light and space. Ms. Gregory responded that you can do a different study every day due to the different heights of the sun. Mr. Newman stated that as the sun sets it would cast a northeast shadow. Ms. Gregory responded yes.

Mr. Levy closed the meeting to the public. A 5 minute was taken at this time. The meeting resumed at 10:15 p.m.

Mr. Ahearn stated that they would like to continue this application to a special meeting date. This application was carried to the May 21 meeting to announce the new special meeting date. Mr. Ahearn consented to the time for the Board to act on this application.

APPLICATION CARRIED TO MAY 21, 207.

ADJOURN

Mr. Newman made a motion to adjourn this meeting and Mr. Karas seconded the motion.

VOTE: All Present - YES.
TIME: 10:30 p.m.

Respectfully submitted,

Carol LoPiccolo
Zoning Board Clerk