

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
of June 18, 2007**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's special meeting held on **Monday, June 18, 2007**.

Chairman Scott Levy called the regular meeting to order at 7:45 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. Nakashian, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Sacchinelli, Mr. Blecher, Mr. Diner, Mr. Meer, Mr. Charipper and Mr. Levy.

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

Mr. Levy announced the following adjournments:

Commercial Old Business:

1. Application #2006-018, Sebastian E. Lentini (McDonald's)
37-01 Broadway, Block 2320, Lots 10-12, Zone B-2/R-1-3
Amendment to approved use/site plan approval requires site plan approval as per RGO Section 125-6. **Application carried to a special meeting on June 28, 2007.**
2. Application #2006-038, 37-10 Broadway, LLC (Zap Lube)
37-02/37-10 Broadway, Block 2201, Lot 2, Zone B-2
The placement of a billboard sign on the property located at 37-01 through 37-10 Broadway, Block 2201, Lot 3. The billboard requires a use variance as the service is provided at another location RGO Section 125-57(d)(1). **Application carried to a special meeting on July 9, 2007.**
3. Application #2006-100, Omnipoint Communication, Inc.
33-02 Morlot Avenue, Block 2410, Lot 49-56, Zone R-1-2
The proposed antenna flagpole requires a use variance as per Section 125-57.D.(d)[1] use variance. **Application carried to a special meeting on July 12, 2007.**

4. Application #2007-022, Cumberland Farms, Inc.
20-11 Fairlawn Avenue, Block 4701, Lot 6, Zone B-1
The proposed removal of existing Gulf Service Station and reconstruction of a gasoline filling station requires a Conditional Use Variance Section 125-24.B. A new Cumberland Farms convenience store creating two principal uses requires a Use Variance as per Section 125-57.D.(d), Major Site Plan Approval as per Section 125-65.A. Variances and or waivers for Buffer Section 125-41.B.(12), parking and loading areas Section 125-48.D., Food Handler's License/Minor Site Plan Application Section 125-65.B.(3), Signs Section 125-48.B, Fences Section 125-38.A. **Application carried to a regular meeting on September 17, 2007.**

No further notice will be given and all applicants consented to the time for the Board to act on their respective application.

Commercial Old Business:

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.

Matthew Ahearn, attorney for the applicant, came forward. Mr. Ahearn thanked the Board for their attendance at all the meetings for this application. 35.91' in height is what is being asked for. Site plan approval is also required. Front yard and rear yard variances are needed. Impervious coverage variance is also needed. Although a sub-division is requested, it is not needed to approve the variance for the structure of the firehouse. This application will involve the municipal government to rearrange the lots, but should not impact the Board's decision tonight, and if that does not occur, the applicant will come back. The testimony that was given by the planner, engineer and the captain of the fire department, has indicated that relief should be given to this application. The applicant will work with the Board for lighting. Mr. Ahearn stated that the River Road parking aspect will be decided by the governing body. The standards that the Board must apply have nothing to do with wants and needs. The expansion is necessary and the current structure is outdated. The needs of the municipality dictate the design that has been proposed. The design proposed is a better design than a flat roof design that would have been permitted in that zone. The height variance being sought is a minor one. The impervious coverage has been reduced on the site. This is not a use variance case and is a height variance case. A volunteer fire company is a use

permitted in a residential zone. This is an inherently beneficial use. Mr. Ahearn read from Grasso v. Spring Lake Heights. The proposed structure will never be competing with the houses to be out of character with the neighborhood. The applicant has proven the special reasons for a height variance. The existing structure is out of character with the neighborhood. The proposed structure is much more in character with the neighborhood. The proposed structure allows for air and light. There is no evidence that shows the proposed is a detriment to the MLUL and there is no negative impact. Mr. Ahearn stated the applicant has met the burden of proof and the application should be approved.

Mr. Soukas clarified that although Mr. Ahearn stated it is an inherently beneficial use, the Board is voting on a D-6 height variance. Mr. Ahearn stated the applicant is promoting the general welfare. Mr. Soukas stated that inherently beneficial is not a basis for a vote.

Mr. Karas stated that it is a municipally operated facility and is an inherently beneficial use.

Ms. Spindel asked Mr. Ahearn to clarify Grasso v. Spring Lake Heights.

Mr. Levy stated the Board will vote first for the height variance and the site plan/subdivision would then be voted on. Mr. Soukas stated that the height variance will require 5 affirmative votes and the site plan will only require a majority vote.

Mr. Newman made a motion to approve this application for an 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. 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 and Borough Council approval, lighting, and landscaping as previously discussed by the Board. Mr. Salerno seconded the motion.

VOTE: Mr. Karas stated that this is a municipally operated facility and the height was to be determined by the new apparatus. The internal usage has been testified to. A square box building could have been provided, but mechanicals would have been on top of the building and the height of the 35.91' feet does not block surrounding dwellings of the open air and light. Mr. Karas described the south and north of the property and that most of the bulk variances are existing - **YES**.

Mr. Newman voted **YES** and stated that the proposal is an improvement to the area and is more appropriate to the character of the neighborhood and will blend

the commercial zone to the residential zone. There have been hardships demonstrated. The impervious coverage has been reduced. There is a drainage easement on the property. The proposal will advance the general welfare and is necessary for a modern fire company.

Ms. Spindel voted **YES** for the same reasons as Mr. Karas and Mr. Newman. The peak roof and glass on top is more area and there is no impact to the area.

Mr. Salerno voted **YES** for the same reasons listed above and cannot predict the future for what is needed for the equipment and this will be a fully adequate firehouse for the town and the neighbors will learn to appreciate what it looks like and will be an asset.

Mr. Sacchinelli voted **NO** because of it being a 3 story building and the dormitory and weight room could have been accommodated elsewhere.

Mr. Meer had reservations to the height but the appearance of the building is an improvement and it does promote the safety for the town and voted **YES**. Mr. Meer is in favor of the residential property being added to the north of the site and agreed with the statements above that approved it.

Mr. Levy stated there has been a lot of testimony in regards to the application, but felt the proof was not given under the regulations of the MLUL. The testimony of the architect in regards to the height is much higher to the peak. Nothing proves that this is a better fit in the neighborhood. The structure that they can place within the requirements could have been built. It was testified that a simple structure could have been designed and would have fit better within the neighborhood. Because it is a firehouse structure now - it is a beneficial use - and the surrounding neighborhood knows it is a beneficial use. Looking forward to the future, regardless of what might be needed, Mr. Levy felt they need to look at what is needed now. Mr. Levy disagreed that the height fits in with the neighborhood. All of the amenities could have been provided for with a lower structure. Mr. Levy disagreed that this would fit in with the neighborhood, but what is consistent with River Road. The structure does not take into consideration the houses across the street. Mr. Levy voted **NO**.

APPLICATION APPROVED – Use Variance and Site Plan.

Mr. Meer made a motion to approve the subdivision as previously testified to. Landscaping would be provided as per Board's comments and as per the land swap to be approved by the Mayor and Council. Mr. Newman seconded the motion.

VOTE: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Sacchinelli,
Mr. Meer and Mr. Levy - YES.

Mr. Levy stated the subdivision plan shows the residence to the north and will be in character with the neighborhood and all landscaping would be provided to that and must be approved by the Mayor and Council.

APPLICATION APPROVED – Subdivision.

A 5 minute recess was taken at this time and the meeting resumed at 8:20 p.m. Roll Call was taken and Mr. Karas recused himself from the following 2 applications.

Residential Old Business:

1. Application #2007-044, Louis Tsai and Anemarie Perez-Tsai
13-43 Jerome Place, Block 2609, Lot 6, Zone R-1-2
Existing corner lot is 89'x116'. The proposed addition and renovations would create an additional living space creating a two family dwelling in a one family zone. Would have existing front yard setback of 29.23' and 25.46' where 30' is required. Would reduce the existing side yard setback from 14.41' to 10' where 12' is required as per Section 125-12 Schedule of area, yard and building requirements.

Mr. Andrew Karas [attorney for the applicant came forward]. Fees totaling \$88.00 have been paid and there is proof of service. Mr. Karas stated that initially the applicant was proposing a basement bedroom and kitchen for his parents and that would have made it a 2 family. The present plans propose a basement with a family room. The kitchen has been eliminated. The variances for lot depth and front yard setback are existing. The side yard setback required is 2' from the requirement. The home will be squared off and the relief required is minimal.

Mr. Louis Tsai was sworn in and testified that the bedroom and kitchenette has been eliminated and the basement will be used for a family room. Mr. Tsai stated they would like to build across the garage and have all 3 bedrooms on the second floor.

Mr. Newman stated that a 2 family dwelling is no longer being proposed.

Mr. Karas stated the impervious coverage is being increased by 1.7% but is still within the 35%.

Mr. Levy asked why the side yard setback is being reduced. Mr. Karas stated that architecturally, the house is being squared off and what is required. Mr. Tsai agreed.

Mr. Levy asked if a 2 car garage is being proposed. Mr. Tsai stated yes.

Mr. Levy asked what the height would be. Mr. Karas stated it would be 19'.

Mr. Levy asked if this fits in with the character of the neighborhood. Mr. Tsai stated the house will still look like a cape cod and will fit in with the neighborhood and is similar to other homes in the area.

Mr. Levy asked about the entrance to the basement. Mr. Tsai stated that the entrance is there now.

Ms. Spindel asked if the pictures submitted are within 200' of Mr. Tsai's home. Mr. Tsai stated yes.

Mr. Newman confirmed that there will be no kitchen. Mr. Newman asked how far the closest house is on the southerly portion. Ms. Tsai stated approximately 100'.

Mr. Levy opened the meeting to the public within 200' and the following member was sworn in.

Gloria Broder, 13-31 Jerome Avenue, stated that she was against the proposed application being a 2 family home.

Mr. Levy stated the applicant testified it will remain a one family.

Mr. Levy opened the meeting to the general public and no one came forward. Mr. Levy closed the meeting to the public.

Ms. Spindel made a motion to approve this application and Mr. Charipper seconded the motion.

Mr. Newman requested that no rough plumbing be installed in the basement for future use of a kitchen. Mr. Karas objected to that stipulation. Ms. Peck stated a kitchen would not be allowed and the Building Department would make sure during construction, but rough plumbing could be allowed.

VOTE: Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Meer and Mr. Levy - Yes.

APPLICATION APPROVED.

Residential New Business:

1. Application #2007-052, Franco Saldano
0-109 Fair Lawn Parkway, Block 2205, Lot 8, Zone OBS-2
Proposed addition would be an expansion of an existing non-conforming single family dwelling in an OBS-2 zone. A D-2 use variance for expansion of a non-conforming use. Existing lot is 6,426 s.f. where 6,500 s.f. is required. Lot frontage of 54' where 65' is required. Proposed addition would have existing front yard setback of 20.3' where 25' is required. Would have existing side yard setbacks of 7' and 8.9' where 10' is required as per Section 125-12 Schedule of area, yard and building requirements.

Franco Saldano came forward and was sworn in. Mr. Andrew Karas [attorney for the applicant] came forward as well. Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Karas stated that the zone that applies to the Dunkin Donuts on Broadway extends to the rear of Mr. Saldano's property which makes him in a OBS-2 zone and he needs a use variance along with some minor bulk variances. The existing front yard setback would be maintained along with the side yard setbacks. The other residential properties on Fairlawn Parkway have similar properties and the applicant is proposing a 2nd floor addition and will conform with the other homes in the area.

Mr. Saldano stated he has owned the property for 18 months and owns it with his wife and has 2 bedrooms and needs additional space for his family. Mr. Saldano stated that what he is proposing is consistent with the other homes in the area. The current home is a 1 story residence. The second floor will have 3 bedrooms and 2 bathrooms. Currently there is 1 bathroom. The lot is similar in size to the area.

Ms. Spindel asked what the height of the roof will be. Mr. Saldano stated 26.10' and is within the requirements.

Mr. Newman asked if this were approved does this allow residential use of the property or allow a commercial property to go there.

Ms. Peck stated that currently it is a commercial zone and a commercial use could go there.

Mr. Levy opened the meeting to the public within 200' and no one came forward. Mr. Levy opened the meeting to the general public. Mr. Harvey Rubenstein asked

what the height would be to the ridge. Mr. Karas stated it would not exceed the Ordinance requirements.

Mr. Levy closed the meeting to the public.

Mr. Nakashian made a motion to approve this application and Mr. Meer seconded the motion.

VOTE: Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

APPLICATION APPROVED.

2. Application #2007-046, William Wilters
10-18 2nd Street, Block 5517, Lot 54, Zone R-1-3
Existing lot is 5,000 s.f. where 6,500 s.f. is required. Lot frontage of 50' where 65' is required. The proposed addition with a rear yard cantilever would increase the building coverage from 28.26% to 29.46% where 25% is permitted. Would increase the impervious coverage from 49.60% to 50.81% where 35% is permitted. Would have an existing side yard setback of 5.80' where 8' is required as per Section 125-12 Schedule of area, yard and building requirements.

William Wilters and Donna Wilters came forward and were sworn in. Fees totaling \$88.00 have been paid and there is proof of service. Mr. Wilters stated that they would like to expand the home by adding the second level with a rear cantilever which is accounting for the increase in building and impervious coverage.

Ms. Spindel stated there is a shed in the back and asked if the shed is included in the calculations. Ms. Peck stated no. Ms. Spindel stated she saw cars being worked on and asked if he was running a business. Mr. Wilters stated no - it is a hobby.

Mr. Levy opened the meeting to the public within 200' and no one came forward. Mr. Levy opened the meeting to the general public.

Mr. Rubenstein asked why the coverage is so high. Mr. Wilters stated it is a small lot and he only has a house and a garage and a driveway. Mr. Levy closed the meeting to the public.

Mr. Newman made a motion to approve this application and Mr. Karas seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

Mr. Newman felt the lot is undersized and the increase is diminimous.
Ms. Spindel wanted the calculations of the shed to be included.
Mr. Levy stated the conditions are pre-existing and the cantilever is causing the increase in impervious coverage.

APPLICATION APPROVED.

3. Application #2007-047, Franklin and Ada Tang
13-09 Plaza Road, Block 3611, Lot 5, Zone R-1-2
Existing lot is 6,752.67 s.f. where 7,500 s.f. is required. Lot frontage of 51' where 75' is required. Proposed addition would have existing side yard setbacks of 9.92' and 8.78' where 10' is required as per Section 125-12 Schedule of area, yard and building requirements.

Mr. Diner recused himself from this application.

Ada Tang and Franklin Tang came forward and were both sworn in. Fees totaling \$88.00 have been paid and there is proof of service.

Mrs. Tang is requesting a variance for a second floor. The conditions are existing. Approval has been granted by Radburn. The proposed addition will look like her neighbor's. No height is being raised and the work is being done to the rear to get the roof points in line from the first floor to the second floor.

Mr. Levy opened the meeting to the public within 200' and the general public. No one came forward. Mr. Levy closed the meeting to the public.

Mr. Charipper made a motion to approve this application and Ms. Spindel seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer and MR. Levy - YES.

Mr. Karas stated that the only reason the applicant is before the Board is because of an existing undersized lot. The application is staying within the footprint.

Mr. Newman and Mr. Levy agreed with Mr. Karas.

APPLICATION APPROVED.

4. Application #2007-048, Mikhail and Riva Fishbeyn
15-07 Eberlin Drive, Block 4703, Lot 31, Zone R-1-3
Existing lot is 8,834 s.f. where 6,500 s.f. is required. The proposed addition would have existing side yard setbacks of 9.94' and 9.48' where 10' is required as per Section 125-12 Schedule of area, yard and building requirements.

Mikhail and Riva Fishbeyn came forward and were both sworn in. Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Fishbeyn stated that they would like to put on an addition and are only seeking a variance for 5" on the side yard that is existing. The addition will stay within the line.

Mr. Levy opened the meeting within 200'. No one came forward. Mr. Harvey Rubenstein, 28 Rutgers Terrace, and asked what the height is to the ridge. Mr. Levy stated it is 19' to the highest point. Mr. Levy closed the meeting to the public.

Mr. Meer made a motion to approve this application and Mr. Karas seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

Mr. Karas stated that the first floor addition and the side yard variance needed is existing and is minor.

Mr. Levy stated that the motion should be changed to include a variance for impervious coverage of 35.65% and building coverage for 26.17%. Mr. Meer and Mr. Karas amended their motion.

APPLICATION APPROVED.

5. Application #2007-049, Eric and Carol Hansen
9-13 Burbank Street, Block 4518, Lot 2, Zone R-1-3
Lot frontage of 50' where 65' is required. Proposed addition would have existing front yard setback of 24.84' where 25' is required. Would have existing side yard setbacks of 4.72' and 5.47' where 8' is required as per Section 125-12 Schedule of area, yard and building requirements.

Carol Hansen came forward and was sworn in. Fees totaling \$88.00 have been paid and there is proof of service.

Ms. Hansen stated that they would like to put a second floor addition at the rear of the house. The existing front yard and side yard setbacks are currently existing. The footprint would remain the same.

Mr. Newman asked what the height will be. Ms. Hansen stated the height will be the same at 23' to the ridge.

Mr. Levy opened the meeting to the public within 200' and the general public and no one came forward. Mr. Levy closed the meeting to the public.

Mr. Meer made a motion to approve this application and Ms. Spindel seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

The Board stated the conditions are existing and if the Ordinance did not change this applicant would not have needed to be before the Board.

APPLICATION APPROVED.

6. Application #2007-050, Jin Chiu Lu
28-15 Rutgers Terrace, Block 3621, Lot 27, Zone R-1-2
Existing lot is 6,249 s.f. where 7,500 s.f. is required. Lot frontage of 62.5' where 75' is required. The removal of existing house and replace with a new one family dwelling would have building coverage of 29.3% where 25% is permitted. Would have impervious coverage of 36.9% where 35% is permitted. Would have side yard setback of 8.04' where 10' is required. Would have front yard setback of 22.93' where 30' is required as per Section 125-12 Schedule of area, yard and building requirements.

Ronald Havener, 114 Holiday Lane, Riverdale, NJ, came forward and was sworn in to act on behalf of the applicant. The Board felt this application should be carried to the July 19 meeting so the property owner could be present.

APPLICATION CARRIED TO JULY 19.

7. Application #2007-051, Nagy and Samia Soliman
24-15 Rosalie Street, Block 3320, Lot 21, Zone R-1-3
Existing deck would have deck coverage of 6.24% where 5% is permitted as per Section 125-12 Schedule of area, yard and building requirements.

Nagy and Samia Soliman came forward and were sworn in with Maria Barkarous, 2-10 Plaza Road. Mr. Soliman stated that he is requesting a variance for a deck

with 6.24% coverage. Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Levy stated the deck is not going beyond the building façade.

Ms. Spindel asked if the deck has already been built and was a permit issued. Ms. Peck stated yes, the deck has been built and a permit was issued.

Mr. Soliman stated a measurement mistake was made by the framer. Mr. Soliman stated they meet the requirements and are only in violation of coverage. Mr. Soliman stated the minor violation is not harmful to the neighbors and they have no objections.

Ms. Peck stated the deck was approved to be built and once it was completed it was over the 5% coverage.

Mr. Nakashian stated the deck does not appear to be a big deck and the neighborhood has been improved.

Ms. Spindel asked what was the original size supposed to be. Mr. Soliman stated 10'x24'. Mr. Karas stated the current deck is 288 s.f. without the stairs. 312 s.f. would be the total with the stairs. Mr. Karas thought the coverage might be higher than 6.24%. Ms. Peck stated the actual deck coverage is 6.44%.

Mr. Levy opened the meeting to the public within 200' and the general public. No one came forward. Mr. Levy closed the meeting to the public.

Ms. Maria did not object to this application and is the neighbor.

Mr. Nakashian made a motion to approve this application and Ms. Spindel seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

APPLICATION APPROVED.

Commercial New Business:

1. Application #2007-053, Sprint Spectrum, L.P.
21-21 Broadway a/k/a 21-18 Rosalie Street, Block 3330, Lots 4 & 5, Zone I-2
The proposed addition of 3 new antennas, 6 new antenna cables, additional equipment added to existing equipment room and structural reinforcement to the

existing 140 ft. monopole with require a Use variance as per Section 125-57.D.(d).

Lawrence Calli [attorney for the applicant] came forward. Fees totaling \$900.00 and \$4,500.00 have been paid and there is proof of service. Mr. Calli stated that the application is for co-location of antennas and is located in an I-2 zone. The property currently has 4 carriers on the tower and the proposed application is to add 3 antennas to the monopole at a height of 142 ft. This will involve the relocation of the antennas at that height. The equipment shelter will be moved. The changes are diminimous. In 1997 this Board approved the monopole for Nextel to have 12 antennas. Only 9 were appended at that time. The applicant now needs to add 3 antennas that were already approved in 1997. A height variance is needed for 142' and an amended site plan.

Mr. Peter Papay [Engineer] came forward for the applicant and appeared before this Board 10 years ago for the previously approved site. Mr. Papay prepared the site plan.

The site plan dated February 12, 2007 was marked as **Exhibit A-1**.

Mr. Papay described the site. The antennas would be the same size. There will be 6 additional cables connecting the antennas. The HVAC units will be upgraded. A structural analysis was done on the tower and could handle the additional antennas.

Mr. Levy asked about the new equipment cabinet. Mr. Papay stated the building is 5' off the property line and is within the setback. The noise level will remain the same and is adjacent to the railroad tracks.

Ms. Cheryl Bergailo, [Board Planner] stated that the equipment is located on the site plan but is missing from S-1.

Mr. Levy opened the meeting to the public within 200'.

Mr. Randolph Bortz, 1-21 Banta Place, asked if there would be any reinforcement to the monopole. Mr. Papay stated that the monopole has been already reinforced for the antennas on the pole and for future antennas. It was calculated with wind forces and has been reinforced.

Mr. Bortz asked how many more antennas could be supported by the monopole. Mr. Papay stated that the reinforcement is for just these additional 3 antennas and is adequate.

Mr. Levy closed the meeting to the public.

Mr. Karas stated that the last antennas that were installed were in 1997. Mr. Papay stated that since then other carriers have been added. Mr. Papay stated that the last reinforcement was done since then and did not need to go before a Board.

Ms. Peck thought the last application was before this Board a few years ago.

Mr. Calli stated that when a monopole is reinforced it is regulated by the Building Department.

Mamoj Kumar, [RF Engineer] came forward and was accepted as an expert witness. Mr. Kumar stated that Sprint offers emergency services, text messaging and phone service. There is a coverage gap in the area and a need to fill the gap. Right now Nextel is using a different technology than Sprint and they operate on different frequency bands. The coverage map was marked as **Exhibit A-2**. The map showed a photo of the tower currently existing. The base map is a topographical map. The 2nd map is existing coverage. Presently there are 2 sites in Fair Lawn at Wagaraw Road and Maple Avenue and one at Route 208 and Berdan Avenue. Currently there is a coverage gap and Mr. Kumar depicted the gap on the map. There is a significant gap in coverage as testified by Mr. Kumar. Nextel and Sprint are using different technologies even though the companies have merged.

Mr. Levy asked if the technology would be merged. Mr. Kumar stated that one technology would eventually be phased out, but not anytime soon. Mr. Kumar stated that once that were to happen the proposed coverage would suffice.

Ms. Spindel asked if the map depicted sites in Elmwood Park, Paramus, and Rochelle Park. Mr. Kumar stated the coverage map is Fair Lawn but have sites in Elmwood Park, Paramus and Rochelle Park. Broadway is the major road going through town and is commercial. Banta Place is residential and commercial.

Mr. Kumar stated that the new site will mitigate the coverage on Broadway and Midland Avenue and will remedy the problem in coverage. The level of interference will be none.

Mr. Levy asked once the additional antennas are being added and if Nextel and Sprint combine their technologies would there be a need for all 12 antennas. Mr. Kumar stated no and what is not needed would be removed.

Mr. Newman asked if the technology is new to Nextel, but is it new to Sprint. Mr. Kumar responded it is only new to Nextel, but is not new to the industry.

Mr. Soukas asked if there is methodology that is used to determine that the gap is significant. Mr. Kumar stated that different strategies are used to determine the coverage. It could be customer complaints, data is collected and processed and whenever .25 miles coverage gap, they try to plan a site for that area.

Mr. Newman asked if the current gap is sufficient. Mr. Calli stated that FCC regulations require the carriers to supply seamless coverage and reliable service. Mr. Kumar stated the accuracy of the gap is 95% accurate in its findings. There have been complaints that calls are being dropped in that area when in buildings. The coverage on the street is not reliable and there is interference because the coverage is weak.

Mr. Calli stated the coverage in the area as it exists now is unreliable. Mr. Kumar agreed and the current coverage is not seamless. The proposed location will remedy the gap in coverage.

Mr. Levy opened the meeting to the public. No one came forward. Mr. Levy closed the meeting to the public.

Mr. Collins [Chief Operations with Pinnacle Telecom] came forward and stated that the emissions from this site are safe within FCC regulations with the addition of the additional antennas. The formulas are conservative and the proposed are less than the calculations shown. There will be 6 additional frequencies. Any frequency up to 100% is within the FCC standard formula. This site will be 120 times below the regulation and is a combination of all the antennas.

Mr. Charipper stated that it complies within the FCC regulations.

Ms. Spindel asked Mr. Collins if this would be safe within 200' of the properties. Mr. Collins stated yes.

Randolph Bortz, stated he does live within 200' and does not feel comfortable with the addition of these additional antennas. Mr. Levy asked if there have been any changes with Mr. Bortz's electronic items since this tower went in. Mr. Bortz has had problems with the cable and sometimes TV, but did not know if it were the effect of the monopole. Mr. Collins did not feel it was an effect from the monopole.

Ms. Meghan Hunscher, [professional planner] came forward. Ms. Hunscher was accepted as an expert witness. Ms. Hunscher stated that she had visited the site and read the previous resolutions. A variance is required for the 3 additional antennas. Ms. Hunscher presented photos that were marked as **Exhibit A-3a, A-3b, and A-3c**. The photos showed what is currently existing and what is proposed.

Ms. Hunscher stated that the site is already developed in an I-2 zone and this use is not permitted in the zone. The height would not be increased. The site is particularly suited for this application. The proposed antenna will blend in as far as size and color. This site will promote seamless coverage. The positive criteria has been met. The use serves the public good. The use promotes the general welfare and promotes the use of the land. It encourages a free flow of traffic. It Meets a high demand for the customers. The negative criteria has also been met. The visual impact will be unperceivable and does not impair the Master Plan. There will be no impact on public safety. The monopole has been reinforced and this proposal complies with the previous approval.

Ms. Bergailo asked what is the color of the proposed antennas. Ms. Hunscher stated they would be done to match the existing antennas. Ms. Hunscher stated the plan should be revised to show that.

Mr. Levy opened the meeting to the public.

Randolph Bortz stated it was testified there would be no visual impact and disagreed. Mr. Calli stated that the monopole is existing. Ms. Hunscher stated that the additional antennas would not add to the current view. Mr. Bortz stated that these little modifications all add up to a big modification.

Ms. Spindel asked if Mr. Bortz would be happier if the pole were to be disguised as a pine tree.

Mr. Calli stated that it could not be converted at this time. It was constructed as a monopole.

Ms. Bergailo asked what type of surface are the condensers on. Mr. Kumar stated it is on crushed stone. The compressor on the side would be put on a pre-cast pad. Ms. Bergailo stated nothing was provided to show the impervious coverage. Mr. Kumar stated they would re-do their plans to show the coverage and the color of the antennas. There was an addition put on the north side of the building. Mr. Calli asked if the increase in impervious coverage would affect the site. Mr. Kumar responded no.

Ms. Spindel asked who the owner of the pole is. The tower owner rents out the space to the carriers. Ms. Spindel asked who would remove the pole if the use would stop. Mr. engineer stated that is a statement in the resolution that is typical that would require the owner of the pole to have it removed.

Mr. Karas asked the height of the monopole. Mr. Kumar stated the monopole itself is 140' but the top of the antenna goes to 142'. Mr. Karas asked what the

reinforcement of the monopole is. Mr. Levy stated that is irrelevant as it is a building code.

Mr. Calli stated the Board approved 10 years ago for 12 antennas and subsequently 3 other carriers have located on the monopole and now the applicant is seeking the 3 additional antennas and the structure has been reinforced and could handle it. There is a significant gap in coverage and the additional antennas onto the existing tower is necessary to provide the coverage. All FCC regulations will be complied with. The site is particularly suited for the use. There is no substantial detriment to the community and zoning plan. The Board should issue an approval for a use variance, height variance and site plan approval.

Mr. Charipper made a motion to approve this application with the condition that should the antennas no longer be needed that they be removed. Mr. Karas seconded the motion.

VOTE: Mr. Karas, Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer and Mr. Levy - YES.

Mr. Levy stated that this structure was approved 10 years ago and may be a bother to the neighborhood, but the technology is needed and the additional antennas are diminimus.

APPLICATION APPROVED.

Variance Extension:

1. Application #2005-115, Antonio and Adele Artola
34-14 Berdan Avenue, Block 2521, Lot 19
Construction of a circular driveway which would increase the impervious coverage from 38.38% to 40.56% where 35% is permitted and have two curb cuts where only one is permitted.

Mr. Salerno made the motion. Mr. Nakashian seconded the motion.

EXTENSION GRANTED.

Ms. Spindel left the meeting at 11:10 p.m.

Vouchers:

1. Karen Kocsis in the amount of \$425.00 for June 18, 2007 attendance fee; and
2. Paul Azzolina in the amount of \$2,932.50 for the Fire Company #1 application.

Resolutions:

1. Application #2007-031, James and Lori Roccanova, 0-62 Blue Hill Road, Block 1108, Lot 3, Zone R-1-3 – Pool.
2. Application #2007-034, Paul, Patricia and Robert York, 35-09 Lenox Drive, Block 2408, Lot 23, Zone R-1-2 – Pool.
3. Application #2007-035, Andrei Cheine, 3-22 Cyril Avenue, Block 4327, Lot 7, Zone R-1-3 – Addition.
4. Application #2007-036, Roman and Yelena Lipovetsky, 19-36 Hunter Place, Block 2807, Lot 26, Zone R-1-2 – Foyer.
5. Application #2007-045, Kathi and Elliot Schneider, 0-50 West Amsterdam Avenue, Block 2216, Lot 3, Zone R-1-3 – Addition.
6. Application #2007-039, Beth and Steven Wechsler, 378 Owen Avenue, Block 3801, Lot 26, Zone R-1-1 – Addition.
7. Application #2007-037, Nancy DelMauro, 16 Ryder Road, Block 3617, Lot 2, Zone R-1-2 – Addition.
8. Application #2007-038, Mark and Jackie Richards, 32-06 Nicholson Drive, Block 2512, Lot 29, Zone R-1-2 – Addition and deck.
9. Application #2007-040, Yefrim and Roza Grinberg, 36-24 Ferry Heights, Block 2607, Lot 13, Zone R-1-2 – Addition.
10. Application #2007-041, Scott and Audrey Gross, 45 South Broadway, Block 1105, Lot 9, Zone R-1-3 – Addition and porch.
11. Application #2007-042, Stephen and Emily Feldman, 39-15 Van Duren Avenue, Block 1512, Lot 9, Zone R-1-2 – Addition.
12. Application #2007-043, Stephen and Marie Conte, 5-06 6th Street, Block 5403, Lot 29, Zone R-1-3 – Fence.
13. Application #2006-024, Andrezej Soltys, 0-28 Plaza Road, Block 3223.01, Lot 1 – New one family dwelling.
14. Application #2006-017, Norman Barta, 6 Berkely Place, Block 3705, Lot 12 – Addition.

Mr. Newman made a motion to accept these resolutions and Mr. Meer seconded the motion.

VOTE: All Present – AYE.

Minutes

1. Mr. Sacchinelli made a motion to approve the minutes as amended for the June 7, 2007 meeting and Ms. Spindel seconded the motion.

VOTE: All Present - AYE

Adjourn

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

TIME: 11:20 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Carol LoPiccolo
Zoning Board Clerk