

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Of August 21, 2006**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on **Monday, August 21, 2006**.

Chairman Scott Levy called the regular meeting to order at 7:40 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. Charipper, Mr. Meer, Mr. Levy, Mr. Sacchinelli, Mr. Salerno, Mr. Blecher and Mr. Diner.

Also in attendance were Bruce Rosenberg, Board Attorney; Karen Kocsis, Court Reporter, Ann Peck, Assistant Zoning Officer and Carol LoPiccolo, Zoning Board Clerk.

Commercial New Business:

1. Application #2006-077, United Cerebral Palsy of Hudson County, Inc., NJ  
5-17 & 5-19 River Road, Block 5401, Lot 10, Zone R-1-3  
Proposed are two, one-family group home dwellings on one lot requires a Use Variance as per RGO Section 125-17 – only one dwelling per lot is permitted.

Mr. Levy: "United Cerebral Palsy of Hudson County has been adjourned to the September 18, 2006 meeting."

Residential Old Business:

1. Application #2006-055 – Gina and Vincent Scappaticcio  
4-03 Lyons Avenue, Block 5626, Lot 13, Zone R-1-3  
Existing lot width is 60' where 65' is required. The proposed addition would have an existing side yard setback of 9.6' where 10' is required. Would have a street front yard of 10' where 25' is required. Would increase the building coverage from 23% to 26% where 25% is permitted. Would increase the impervious coverage from 39% to 43% where 35% is permitted as per RGO Section 125-12 Schedule of area, yard and building requirements. The proposed 6' fence in the front yard setback where 3' is permitted as per RGO Section 125-38.A.

Mr. and Mrs. Scappaticcio came forward and were both sworn in. Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Scappaticcio: "We are proposing a 1 story addition at the back of the house to enlarge the kitchen and family room."

Mr. Newman: "The 10' front yard is existing?"

Mr. Scappaticcio: "On 4<sup>th</sup> Street it is existing."

Mr. Levy: "Do you share a driveway and your site is raised up? Can you put the addition on the side?"

Mr. Scappaticcio: "Yes I share a driveway and it is raised up and no, I cannot put the addition to the side."

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

Mr. Harvey Rubenstein, 28 Rutgers Terrace, came forward and was sworn in:  
"The 10' is the side yard, not the front yard."

Ms. Peck: "It shows an existing 10' front yard on 4<sup>th</sup> Street, which is a front yard, due to it being a corner property. His address is on Lyons Avenue."

Mr. Newman: "Are you proceeding with the fence tonight?"

Mr. Scappaticcio: "I want to make sure I get the approval for the kitchen and then the fence."

Mr. Levy: "A motion would be made accordingly."

Mr. Newman: "To the 4<sup>th</sup> Street of your driveway - is there additional impervious coverage there?"

Mr. Scappaticcio: "That is paving there for my driveway."

Ms. Spindel: "Is there any way to bring down the impervious coverage?"

Mr. Scappaticcio: "There's not really another way to bring it down."

Mr. Levy: "To remove any part of the driveway would not work."

Mr. Karas: "Next to the garage, where there is a broken line, and it says 5 something - what is that?"

Mr. Scappaticcio: "It's a piece of sidewalk."

Mr. Karas: "To the left of that, there is an irregular shape, which is next to your driveway - what is that?"

Mr. Scappaticcio: "Pavement."

Mr. Karas: "Can any of that be removed?"

Mr. Scappaticcio: "I can remove the part of concrete next to the west of the garage."

Mr. Karas: "Next to that between the building - that is also pavement - south of the garage?"

Mr. Scappaticcio: "That's part of my driveway, I can't remove any of that."

Mr. Levy: "It's also a shared driveway, which would affect the neighbor."

Mr. Karas: "With respect to the fence, there is a wall along 4<sup>th</sup> Street, how high is that wall?"

Mr. Scappaticcio: "3'2". I am planning on putting the fence 2' in the wall."

Mr. Karas: "So the fence would be 9'2"?"

Mr. Scappaticcio: "Yes."

Mr. Karas: "Would you consider moving the fence back 10' to the building line?"

Mr. Scappaticcio: "No. I could reduce the fence to 4' high."

Ms. Spindel: "So the fence would be over 7'."

Mr. Levy: "I will open the public comment again about the fence."

Mrs. Arlene Rubenstein, 28 Rutgers Terrace, was sworn in. "Does this come under the Ordinance where nothing higher than 3'?"

Mr. Levy: "Yes."

Mrs. Rubenstein: "We shouldn't agree to this. The Ordinance is in place for a reason. You can not see the traffic since it is a corner and I am against this. 3' is quite sufficient and this does not add to the aesthetics of the neighborhood."

Mr. Rubenstein: "I think there is some confusion, it says a 6' fence in the front yard."

Mr. Rosenberg: "Yes, it is on the 4<sup>th</sup> Street side which is considered their front yard."

Mr. Scappaticcio: "I have pictures in the area which depict fences that range from 4' to 9' above grade."

Ms. Spindel: "Can we split the vote?"

Mr. Rosenberg: "Yes, the applicant can bifurcate the application. Is the fence going to be placed on top of the wall or within 2' of the wall?"

Mr. Scappaticcio: "Within 2' of the wall."

Mr. Karas: "The grass area is still approximately 3' above the sidewalk and it will still be a 7' fence above the sidewalk."

Mr. Rosenberg: "Mr. Karas is commenting on how the view would be from the sidewalk."

Ms. Spindel: "Are these pictures within 200' of your property?"

Mrs. Scappaticcio: "They are within 1 mile."

Mr. Meer: "Are you splitting the application so that we're talking about the addition first and then the fence?"

Mr. Scappaticcio: "Yes."

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

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

**ADDITION APPROVED.**

Mr. Karas made a motion to deny the 6' fence and 4' fence in the front yard setback. Mr. Nakashian seconded the motion.

Mr. Newman: "What happens if the denial vote does not get enough yes votes?"

Mr. Rosenberg: "Than it is approved for a 4' fence."

VOTE: Mr. Karas, Mr. Nakashian, Ms. Spindel, Mr. Meer - YES.

Mr. Newman, Mr. Charipper, Mr. Levy - NO.

**FENCE DENIED.**

2. Application #2006-058 – Arkady Geltzer  
30-14 Garrison Terrace, Block 2805, Lot 17, Zone R-1-2  
Existing lot is 7,000 s.f. where 7,500 s.f. is required. The proposed addition and removal of a concrete patio would reduce the impervious coverage from 47.06% to 45.02% where 35% is permitted. Would have an existing front yard setback of 25.8' where 30' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

Mr. Arkady Gelzer was sworn in. Lawrence Guthartz, Architect also came forward. Fees totaling \$88.00 have been paid and proof of service was provided.

Mr. Guthartz: "Plans dated 2/21/06 were marked as A-1, A-2 and A-3 and are for an addition and renovation for a kitchen. Currently the property is 47.06% of impervious coverage and it is being reduced to 45.02% due to removing a lot of concrete near the deck area."

Mr. Levy opened the meeting to the public within 200'. No one came forward. Mr. Levy opened the meeting to the general public. Mr. Harvey Rubenstein, 28 Rutgers Terrace. "What is the total height with the addition?"

Mr. Guthartz: "The existing height is 21.4' and that will remain the same."

Mr. Levy closed the meeting to the public.

Mr. Levy: "The porch is encroaching into the front yard setback?"

Mr. Guthartz: "This will fit in with the character of the neighborhood."

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

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

**APPLICATION APPROVED.**

3. Application #2006-059 – M&R Development, LLC  
57 Sandford Road, Block 3618, Lot 15, Zone R-1-2  
The proposed second floor addition would have an existing side yard setback of 7.8' where 10' is required. Would have an existing front yard setback of 24.8'

where 30' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

The attorney is not present yet and this will be moved to later in the evening.

Commercial Old Business:

1. Application #2006-067, MBB Art, Inc. (Bill Cirignano - Screamin Ink)  
34-09 Broadway, Block 2315, Lot 12, Zone B-2  
The expansion of a non-conforming use requires a use variance as per RGO Section 125-57.D.(d).

Ronald P. Mondello, attorney for the applicant came forward along with Bill Cirignano, owner of Screamin Ink who was sworn in.

Mr. Meer: Fees totaling \$313 and escrow of \$4,500. have been paid and proof of service has been provided.

Mr. Mondello: "How long have you owned this establishment?"

Mr. Cirignano: "8 years."

Mr. Mondello: "Have you had any problems with neighbors?"

Mr. Cirignano: "No. What I'd like to do is to expand my business to the right by opening the wall up. A lot of the kids are waiting in the lobby and it is tight."

Mr. Mondello: "With the expansion will there be new employees?"

Mr. Cirignano: "Eventually 1 or 2."

Mr. Mondello: "What are the parking arrangements and hours of operation?"

Mr. Cirignano: "People make their appointments and stay. People do not just run in and leave."

Mr. Mondello: "What are your hours?"

Mr. Cirignano: "We open at 1 p.m. and close at 10 p.m."

Mr. Mondello: "What was next door that you're taking over?"

Mr. Cirignano: "It was a cell phone place and it was not taken care of and was taken over by several owners."

Mr. Mondello: "What are the renovations that are planned?"

Mr. Cirignano: "I want to renovate the whole place and it will conform to all safety of the Health Department."

Mr. Mondello: "What about the signage?"

Mr. Cirignano: "There is a sign there now and it is small and I'd like to put a bigger sign."

Mr. Mondello: "If he wants to change the sign he would have to go to the Planning Board."

Mr. Mondello: "How would you get to the new area?"

Mr. Cirignano: "You would go into my store and then walk through to the new area."

Mr. Karas: "It would've been helpful if it showed the present floor plan."

Mr. Levy: "That will be explained by the applicant's planner."

Mr. Karas: "Your business is a tattoo parlor? What is non-conforming about the use?"

Mr. Mondello: "It is a prohibited use and the applicant came to the Board in 1998 for an art studio as an interpretation and it was voted no. Then the Board approved it for a use variance."

Mr. Karas: "Is there any signage on the proposed location?"

Mr. Cirignano: "It is for the wireless facility and it will be removed."

Mr. Mondello: "There is no outside entrance to the proposed location."

Ms. Spindel: "How many spaces do you have now?"

Mr. Mondello: "That will be addressed by Mr. Kauker."

Ms. Spindel: "Does he need a specific amount of spaces for the current store?"

Mr. Mondello: "The parking for the entire strip mall is part of the previous site plan."

Mr. Levy: "Where do your employees park now?"

Mr. Cirignano: "Along the side of the building - wherever we find parking."

Ms. Spindel: "You might hire more employees and will need parking spaces."

Mr. Cirignano: "That would not be an issue - it hasn't been an issue before."

Mr. Rosenberg: "Can we have clarification on the parking? How many parking spaces are required?"

Ms. Peck: "It was not submitted to us."

Mr. Mondello: "We do not have a site plan, this is a business expanding into another business and a separate entity would require more parking. He is taking over the next door space and is taking over their parking. There is not a lot of delineated parking spaces and he is allowed to use parking at the bank."

Mr. Meer: "How many customers would be at the peak at one time?"

Mr. Cirignano: "It varies - there could be none and then 5 at one time. There is never a line waiting outside. I wanted the space to add a waiting area and add an office. If a customer has to wait too long, they sometimes leave."

Mr. Meer: "So possibly 4 employees and 5 customers?"

Mr. Cirignano: "I hope so."

Mr. Levy: "What is the average time of a tattoo?"

Mr. Cirignano: "From a half hour to an hour."

Mr. Sacchinelli: "You have 3 workstations - on the proposed side you will put more workstations?"

Mr. Cirignano: "I'd like to put 2 more on that side."

Mr. Newman: "Other than tattooing, is there any other business that go on - like shopping for a tattoo?"

Mr. Cirignano: "Not really. People come in ready for a tattoo."

Mr. Karas: "Is there a minimum age for a person to get a tattoo?"

Mr. Levy: "Do not answer that, it has nothing to do with the application."

Mr. Michael Kauker, Planner for the applicant came forward and was accepted as an expert in planning.

Mr. Mondello: "Can you describe what you've done with this matter?"

Mr. Kauker: "I've reviewed the application and it is a D-2. It is to expand a non-conforming use."

Mr. Mondello: "What is the applicant proposing?"

Mr. Kauker: "The applicant is proposing an addition to take the place of an existing cell phone store of 798 s.f. There is a mix of uses in the strip mall. There is a chicken retail store, bagel store, mattress store, there is 3 retail uses - Screamin Ink, a nail salon and a security system store. There is a mix of uses. The parking is an existing non-conforming state. The peak time is the later part of the day for Screamin Ink. This is a much less intensive use. The use has been in operation for the past 8 years and it would be less likely to create an intense use than an entirely new business. The positive criteria of this the applicant would sign a 10 year lease, there would be no external changes, the parking situation is of a lesser intense use, the access that would be through the existing space, there are personal services that are permitted which are hair salons, nail salons, which this use is unique. The applicant is significantly less than the cell phone store customer base. The time is less than that for a customer than there is for a cell phone store and the proposed use is a significantly less intense."

Mr. Levy opened the meeting to residents within 200'. No one came forward. Mr. Levy opened the meeting to the general public. Mr. Harvey Rubenstein, 28 Rutgers Terrace. "What makes this use non-conforming?"

Mr. Rosenberg: "A decision was made in 1998 that it is a prohibited use since it is not listed as a permitted use."

Mr. Levy closed the meeting to the public.

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

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

**APPLICATION APPROVED.**

Mr. Levy: "It is 9:00 and the Board does not begin testimony after 10:30 p.m."

4. Application #2006-066, Joshua and Ella Weiss

13-46 Comerford Place, Block 1605, Lot 12, Zone R-1-3

The additional concrete walkway around pool and increase to the existing patio would increase the impervious coverage from 42.76% to 50.39% where 35% is permitted as per RGO Section 125-12 Section 125-12 Schedule of area, yard and building requirements.

Ronald P. Mondello, attorney for the applicant came forward. Fees totaling \$88.00 have been paid and proof of service was provided.

Mr. Mondello: "Mr. Weiss hired a company to remove the concrete and replace it with pavers. They did not complete the job and they failed to even get a permit. Prior to this the coverage was 42.76% and the impervious coverage is now at 50.39%. The applicant will attempt to prove a C-2 variance. He has removed unattractive concrete and replaced it with pavers."

Ms. Peck: "The calculations are what is there now. The work has already been done."

The survey was marked as Exhibit A-1.

Mr. Mondello: "The concrete in the northerly section is concrete. The remainder is pavers." Mr. Mondello summarized from NJ Super. 160-41 Lang vs. Borough of North Caldwell. "The Supreme Court found that the removal of an above ground pool with an in-ground pool met the requirements of a C-2 variance."

Mr. Newman: "The work got done how?"

Ms. Peck: "The tax records show that the pool went in in 1970. We received a call from a neighbor when the pavers were going in. Somewhere between 1983 and now, the concrete was added. The applicant agreed to remove the area of 3' x 27' to give us the 4' from the property line. He expanded the small existing patio with pavers and he didn't want to reduce everything. The 12' x 18' area is planning on removing."

Mr. Newman: "The pavers were put in when?"

Ms. Peck: "He received our violation in December of 2005."

Mr. Newman: "When was the job done?"

Mr. Weiss: "May of 2005."

Mr. Mondello: "A contractor was hired and he never got the permit. It's an increase of 7.63% and he shouldn't have done it, but he spent thousands of dollars

making it look better. Supreme Court says if you take out something and replace to make it look better it is a C-2 variance."

Mr. Charipper: "It is his responsibility to make sure he meets the law before he does something. I don't see what the hardship is why he had to put the pavers to increase the coverage to 50.39%. I don't see the benefit of this. I would recommend tearing the whole thing up."

Mr. Mondello: "If we're denied he has to remove 7.63%."

Mr. Levy: "Do you have any other testimony?"

Mr. Mondello: "No."

Ms. Spindel: "I was at the property, it is fenced in and it is in the back yard and it is not a benefit to the general public, but to the homeowner."

Mr. Mondello: "The Supreme Court says it benefits the general public."

Ms. Spindel: "Where does the rainwater go?"

Mr. Mondello: "Ackerman goes upward and his property is on a slope."

Ms. Spindel: "You have to have zero run-off and his water is going into the street."

Mr. Mondello: "What is the front of your property?"

Mr. Weiss: "The front is very flat and is all grass. There is a little slope going from north to south."

Ms. Spindel: "If we have heavy rains, the pavers will not retain the water."

Mr. Karas: "The application is for an increase in impervious coverage."

Mr. Mondello: "Mr. Weiss wants to resolve this."

Mr. Meer: "The yellow area that's being removed around the patio, 3'x27' and the area at the back, if this were made 4', would this get it below the 50%."

Ms. Peck: "No. It would take .06% off."

Mr. Mondello: "Ms. Spindel, you visited the property, the property behind Mr. Weiss' property, is it on an upward slope?"

Ms. Spindel: "I would think so."

Mr. Newman: "I don't think we can punish the applicant of making a mistake without a variance, nor can we feel sorry for the applicant that he has already spent money. We need to look at this as being proposed from 42.76% to 50.39%."

Mr. Levy opened the meeting to the public within 200'. Ken Levine, 13-47 Zito Court, came forward and was sworn in. "My home is in the rear of Mr. Weiss' home. I can tell you that the water from Mr. Weiss' backyard goes to my backyard and it has flooded my yard." Mr. Levine presented photos that were marked as Exhibit A-2 and A-3.

Mr. Levine: "I never had a problem with water until Mr. Weiss installed these pavers. I receive the run-off from his property. I have bushes, trees and plantings that absorb water and I still have a problem."

Mr. Newman: "Only during heavy rains?"

Mr. Levine: "Only during a significant rainfall it has happened on many occasions - at least 9-12 times. I called the Building Department on November 3, 2005 and I was told Mr. Weiss didn't have a permit."

Ms. Peck: "We investigated this complaint and a Notice of Violation was served on December 5, 2006. The applicant worked with us to remove some concrete and go before this Board."

A memo to the Borough Manager dated May 1, 2006 was marked as Exhibit C.

Mr. Levy opened the meeting to the general public. Mr. Harvey Rubenstein, 28 Rutgers Terrace, came forward and was sworn in. "How much money would it cost to remove the pavers?"

Mr. Rosenberg: "That is not a basis for an argument."

Mr. Mondello: "Mr. Weiss, can you address some of these comments?"

Mr. Weiss: "When I was made aware of Mr. Levine's comments, I called him and left a message. He did not return my call. I noticed him in his yard and invited him on to my property. I looked after every rain and there was no flooding except for 1 area where it goes at the northeast and it dissipated there very quickly."

Mr. Mondello: "I ask the Board to look very closely at Mr. Levine's testimony that Mr. Weiss' property is lower than Mr. Levine's property and water runs down

hill, so it is unlikely that Mr. Levine is getting any run-off from Mr. Weiss. Mr. Weiss is open to suggestions - he made a mistake."

Mr. Rosenberg: "It is irrelevant that the pavers have been installed in weighing the C-2 variance. The Board has to look at balancing the negative impact and the request of the applicant."

Mr. Mondello: "If it is denied, Mr. Weiss will decide which areas of concrete will be removed."

Ms. Spindel: "Should we ask the applicant to come back with a plan to reduce the impervious coverage, so as not to flood any properties?"

Mr. Mondello: "It is impossible for Mr. Weiss to flood Mr. Levine's property."

Mr. Levy: "We should be looking at the impervious coverage - not the flooding."

Mr. Mondello: "The increase is 7.63%."

Mr. Levy polled the Board:

Mr. Nakashian: "I think Ms. Spindel's suggestion is logical and fair."

Mr. Karas: "This is an application to increase the impervious coverage in excess of the maximum permitted."

Mr. Charipper: "I think we should vote on it."

Mr. Newman: "We need to look at this application as if it hasn't been done."

Mr. Salerno, Mr. Sacchinelli, Mr. Blecher, Mr. Diner all had no comment.

Mr. Charipper: "I think we should work with the applicant."

Mr. Levy: "The applicant has indicated that he would work with the Zoning Department and that he would put it back to 42.76%. It was discovered and the applicant has made an application regarding this. It is now up to the Board to agree or disagree with this."

Mr. Newman: "Is it legal for this Board to look at this since it has already been done?"

Mr. Rosenberg: "No. The increase in coverage from 35% to 42.76% has been done without an application."

Ms. Peck: "We assume that it was done back in the 70's with the pool."

Mr. Rosenberg: "I'm not sure the applicant has the right to bring it back to the 42.76%."

Ms. Peck: "He did have a Building permit for the pool and prior to 2000 there were no approvals for patios."

Mr. Mondello: "I don't think it is fair to ask the applicant to bring it back to 42.76%. He bought it that way."

Mr. Blecher: "At the time when he purchased the home, he was given a C.O.?"

Ms. Peck: "His survey of 1983 does not show all the concrete that is there now."

Mr. Rosenberg: "Do you wish to withdraw or adjourn your application?"

Mr. Mondello: "I would like to research the legal issue and would request an adjournment to the September 18 meeting."

Mr. Levy: "Rather than use a specific impervious coverage number in the Resolution - "

Ms. Peck: "The 2 areas that don't show on the survey is 4.3%."

This application was carried to the September 18, 2006 meeting.

A recess was taken at this time. The meeting resumed at 10:05 p.m.

Mr. Levy: "All new residential business will be carried to September 7. No new notices will be required for these applications. They are as follows:"

Residential New Business:

1. Application #2006-072, Robert & Ronnie Phillips  
18 Gurney Terrace, Block 3815, Lot 8, Zone R-1-1  
The proposed front porch would increase the impervious coverage from 37.28% to 39.19% where 35% is permitted. Would reduce the side yard setback from 16' to 12' where 15' is required. Would reduce the front yard setback from 36'8" to 29'8" where 35' is required as per Section 125-12 Schedule of area, yard and building requirements.
2. Application #2006-073, Taffy Stevens  
39-30 Wenonah Drive, Block 1209, Lot 8, Zone R-1-3

- Existing lot is 5,051 s.f. where 6,500 s.f. is required. The proposed addition would increase the building coverage to 34.2% where 25% is permitted. The impervious coverage would increase to 40.9% where 35% is permitted. Would decrease the front yard setback from 23.6' to 22.1' where 25' is required. Would decrease the side yard setback from 4.1' to 2.5' where 10' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.
3. Application #2006-074, Tamar Copeland and Gregory Outcalt  
4 Brighton Place, Block 3717, Lot 13, Zone R-1-3  
The existing lot is 2,627 s.f. where 6,500 s.f. is required. The proposed second story addition and covered side porch would have existing side yard setbacks of 0' and 2.84' where 8' is required. Would have existing front yard setback of 22.6' where 25' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.
  4. Application #2006-075, Don and Adrienne Peloso  
4-08 Alyson Street, Block 5412, Lot 14, Zone R-1-3  
The proposed second story addition and cantilever would decrease the front yard setback from 25.1' to 23.2' where 25' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.
  5. Application #2006-076, Irina Chernyakhovskaya  
2 Ramsey Terrace, Block 3612, Lot 20, Zone R-1-2  
Existing lot is 6,000 s.f. where 7,500 s.f. is required. The first floor addition to the garage with second story above would have existing side yard setback of 8.3' where 10' is required. Would have existing front yard setback of 28.9' and new front yard setback of 28.9' and new front yard setbacks of 3.5' and 4.4' where 30' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

RESIDENTIAL OLD BUSINESS: (continued)

5. Application #2006-059 – M&R Development, LLC  
57 Sandford Road, Block 3618, Lot 15, Zone R-1-2 (continued)

The proposed second floor addition would have an existing side yard setback of 7.8' where 10' is required. Would have an existing front yard setback of 24.8' where 30' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

Harold Ritvo, attorney for the applicant, came forward.

Mr. Levy opened the meeting within 200'. Ms. Tatyana Brutnan, 59 Sandford Road. "My house is next to his property, I understand the height of the house is 30'. There will be 8 windows facing my house. I have 2 children and my mom,

I'm just afraid having a house higher than mine - there will be no privacy. There is no fence or bushes there."

Mr. Raphael Danon, 15 Beekman Place, was sworn in.

Mr. Ritvo: "Were these plans submitted to the Radburn Association?"

Mr. Danon: "Yes. They requested the windows."

Mr. Ritvo: "Is the applicant willing to reduce the amount of windows?"

Mr. Danon: "5 windows could be removed."

Mr. Ritvo: "Which ones?"

Mr. Danon: "4 by the garage to the right side. On the upper level, the far left window could be removed."

Mr. Ritvo: "You have the authority of the applicant to make these changes?"

Mr. Danon: "Yes."

Ms. Brutnan: "There will still be 3 windows facing my house. I would like to see revised plans."

Mr. Levy: "Revised plans would have to be submitted to the Building Department."

Ms. Brutnan: "The house across the street, I have never seen that many windows in a garage."

Mr. Ed Stoute, 62 Sandford Road: "I don't think this fits in with the neighborhood. I think they could do something more in line with the neighborhood."

Mr. Levy closed the meeting to the public within 200'. Mr. Levy opened the meeting to the general public. Ms. Felice Koplik, 6 Reading Terrace. Ms. Koplik presented a presentation board of photos marked as Exhibit O-1. "I am concerned that No. 57 is actually 8' higher than No. 55. It's 4.7' higher than another home and 2' higher at 65 Sandford."

Ms. Spindel: "How were the houses measured?"

Ms. Koplik: "I count the boards and multiply by the size and add in the measurement of the foundation."

Ms. Peck: "The house gets measured from the street, not from grade."

Ms. Koplik: "I know this is within the Ordinance, but is higher than other houses in the area."

Mr. Newman: "I don't believe we can take these measurements into consideration. Your method cannot be used as factual."

Ms. Koplik: "I am an architect and use this method - it is an estimate. The reason I put the photos is to depict how this would look from the street. I don't think the photos address the variances. We cannot do anything about the existing variances but we can address the new construction. The minimum side yard is 10', instead of the addition going straight up, on the side of the garage, I ask that the Board enforce the 10' side yard requirement. It would add more open more space as per N.J.S.A. 40-55D-1. This is a problem that is effecting many of the additions in Fair Lawn. The houses are getting bigger and bigger and closer together. There is less light and air going into the existing yards. The front elevation, there is a bay window, that is cantilevered and is not going into the front yard setback. The bay window is coming out maybe 2' and is not really a bay window, and it should be counted into the front yard. This building is a large mass and it will effect the streetscape."

Mr. Ritvo: "You have no way of knowing if the pictures you've presented are to scale."

Ms. Koplik: "The width may be out of scale, but the height is not. I took the architect's photos and blew it up."

Mr. Ritvo: "If you blew it up, how can you make sure it is accurate. If the photos you took were not to scale, how can your photos be to scale?"

Ms. Koplik: "I measured the ridge line on the photo to the grade and my photos are estimates, but very accurate."

Mr. Ritvo: "Do you know how the Ordinance measures the height?"

Ms. Koplik: "Yes, 30' to the mean."

Mr. Ritvo: "So this house could actually be higher."

Ms. Koplik: "I just wanted to bring this to the Board's attention."

Ms. Spindel: "Was this approved by the Radburn Association?"

Mr. Levy: "Yes."

Ms. Spindel: "Do you know how the Radburn Association approves plans?"

Ms. Koplik: "No, I do not."

Ms. Spindel: "They must have guidelines they must follow."

Mr. Sacchinelli: "How many bedrooms are there?"

Mr. Ritvo: "4 bedrooms."

Mr. Levy: "Ms. Koplik - You have no problem with the footprint?"

Ms. Koplik: "No. I feel the 2<sup>nd</sup> floor over the garage, that the 10' setback should be retained."

Mr. Levy: "Regarding the bay window, are you saying the front façade should be flat?"

Ms. Koplik: "I think it should not be any out more than it is now."

Mr. Levy: "Are you aware that the work proposed is 3' back further than what is there now?"

Ms. Koplik: "No."

Mr. Levy: "The existing front porch is 21.8' from the property line and the new proposed enclosure would be 24.8'."

Mr. Harvey Rubenstein, 28 Rutgers Terrace, came forward and was sworn in. "I heard there would be 4 bedrooms, what is the total number of rooms?"

Mr. Danon: "On the 2<sup>nd</sup> floor there would be 4 bedrooms and 2 full baths. On the 1<sup>st</sup> floor there would be a kitchen, dining area, family room, foyer and powder room."

Mr. Levy: "Mr. Kantowitz [attorney at the previous meeting] mentioned the square footage, not the amount of rooms."

Mr. Rubenstein: "He never mentioned the total height of the building."

Mr. Levy: "At the highest peak it is 30'."

Mr. Rubenstein: "This house would be 2' higher than the house next door."

Maureen Roney, 14 Bourbon Place: "You do have Radburn approval?"

Ms. Peck presented the Radburn approval.

Mr. Rubenstein: "The houses to the side are Fair Lawn houses not Radburn."

Mr. Louis DiGeronimo, 19 Beekman Place. "I am also the historian of record for Radburn. When I was told about the project, I was told it would be a McMansion, but after seeing the plans, but I do know in a previous application, the previous Board approved a similar application and the Radburn Association denied it. I know this project is included in the historic preservation and I have no objections. I ask that the applicant address the windows concern of the neighbor. The footprint remains the same and I think that there are certain aspects of this that are in the character of the neighborhood. It is the north side of the building that is effected. I think there is some consideration that he Board may want to address some of Felice's concerns regarding the size of the building and it does stand out. It is not in keeping with the fabric of the area."

Ms. Spindel: "Someone suggested that Radburn pushed for more windows, and the neighbor is asking to reduce the amount, I think to have less is not aesthetically pleasing. You have recommended that it be reduced."

Mr. DeGeronimo: "There should be some consideration regarding the neighbor. There is no architect on the Radburn Association and there is nothing in the guidelines referencing the amount of windows. The architect should be sensitive to the areas around him."

Ms. Spindel: "Are you saying it is more pleasing to have a blank wall?"

Mr. DeGeronimo: "It depends on the wall - that is the architect's job."

Mrs. Arlene Rubenstein, 28 Rutgers Terrace. "When houses are knocked down and are rebuilt, I want it on the record that the foundation will remain the same."

Mr. Ritvo: "We will stipulate that."

Mrs. Rubenstein: "How many garages have windows in the neighborhood?"

Mr. Levy: "The Board does not know - it is a matter of design."

Mr. Levy closed the meeting to the public.

Mr. Ritvo: "I can tell you this application meets the purposes of MLUL Land Use Act. To look at this house, being built on the footprint, cutting back the

maximum building and impervious coverage, cutting back the deck coverage, all previously approved by the previous Board. What is proposed here, is right over the existing garage that is already there and is a small portion, not the whole garage. This has been approved by Radburn , which is not easily done."

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

VOTE: Mr. Karas: I vote with some reservation. This is an improvement over what was approved by the previous Board and it is within the footprint. My concern is over the reduction of air between buildings. Where you have a small 1 1/2 story cape cod - you exacerbate the side yard and is inappropriate and is not consistent with the character of the neighborhood. This is an improvement - YES.

Mr. Nakashian, Mr. Newman, Ms. Spindel, Mr. Charipper, Mr. Meer - YES.

Mr. Levy: "The application is working within the existing footprint and is moving back the front line. The objection of the number of windows has been addressed. The existing 10' side yard setback - it is not being carried across. - YES.

**APPLICATION APPROVED.**

6. Application #2006-068, Susan Snochowski  
4-06 Lyons Avenue, Block 5628, Lot 11, Zone R-1-3  
The existing lot has a lot frontage of 50' where 65' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

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

Mr. Levy: "If it were not for the Ordinance change would this applicant be here?"

Ms. Peck: "No."

Ms. Snowchowski: "I would like to put an addition on a non-conforming lot."

Mr. Karas: "I was looking for the height of the addition."

Ms. Snowchowski: "There is no variance for height."

Ms. Peck: "It is 28.4' to the peak."

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

7. Application #2006-069, Christopher Laoudis  
39-26 Sycamore Drive, Block 1110, Lot 18, Zone R-1-3  
The existing lot has lot frontage of 51.92' where 65' is required. The proposed second story addition would have existing 5' and 5.9' side yard setbacks where 8' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

Mr. Christopher Loudis came forward and was sworn in. Fees totaling \$88.00 were paid and there was proof of service.

Mr. Loudis: "I would like to put a second story addition to my house."

Mr. Karas: "Does this fit with the character of the neighborhood?"

Mr. Loudis: "Yes."

Mr. Levy: "What houses are similar?"

Mr. Loudis: "There is one on Blue Hill - Lot #3."

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

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

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

**APPLICATION APPROVED.**

The following applicants were adjourned to the September 7, 2006 Special Meeting:

8. Application #2006-070, Joseph and Ann Landi  
7-11 Hopper Avenue, Block 5610, Lot 21, Zone R-1-3  
The proposed 6' fence in the front yard setback where only 3' is permitted as per Section 125-3.
9. Application #2006-071, Alain and Victoria Montero  
9 Ruskin Road, Block 3617, Lot 9, Zone R-1-2  
Existing lot is 6,010 s.f. where 7,500 s.f. is required. Existing lot frontage is 65' where 75' is required. The proposed addition would have a front yard setback of 18.4' where 30' is required as per RGO Section 125-12 Schedule of area, yard and building requirements.

Mr. Newman made a motion to go into executive session and Ms. Spindel seconded the motion.

The Board discussed McDonald's and MacBrothers Developers.

Mr. Meer made a motion to go out of executive session and re-open the meeting to the public and Mr. Charipper seconded the motion.

Request for Variance Extension:

1. Variance granted May 16, 2006. Resolution adopted June 2, 2005.  
38-48 Vanore Drive, Block 2504, Lot 41, Zone R-1-2  
The construction of a 21.60' x 17.23' deck would have deck coverage of 6.5% where 5% deck coverage is allowed as per RGO Section 125-12, Schedule of area, yard and building requirements.

Mr. Charipper made a motion to grant this extension and Mr. Meer seconded the motion.

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

**EXTENSION APPROVED.**

**VOUCHERS**

1. Voucher submitted by Karen Kocsis in the amount of \$275.00 for the July 17, 2006 meeting.
2. Vouchers submitted by Winne Banta in the amounts of \$546.00 regarding Zoning Board v. Mac Brothers Developers and \$166.50 regarding Zoning Board v. Sebastian Lentini.
3. Vouchers submitted by Birdsall Engineering in the amounts of \$854.00 regarding McDonalds and \$1,732.00 regarding Zap Lube.

Mr. Charipper made a motion to approve these vouchers and Ms. Spindel seconded the motion.

VOTE: All Present - YES.

**Resolutions**

1. Application #2006-060, Arkady and Rita Zutler, 37-02 Ferry Heights, Block 2607, Lot 14, Zone R-1-2 – Addition – Approved.

2. Application #2006-062, Stephen and Amy Agress, 36-14 High Street, Block 2709, Lot 12, Zone R-1-2 – Addition - Approved.
3. Application #2006-063, Ronald and Myra Sherman, 33-23 Halsey Road, Block 2814, Lot 18, Zone R-1-2 – Addition - Approved.
4. Application #2006-065, Joseph and Diane Tedeschi, 4-08 Hartley Place, Block 3409, Lot 16, Zone R-1-3 – Addition - Approved.
5. Application #2006-061, Mohammad Faiza Riaz, 10-01 Berdan Avenue, Block 5603, Lot 30, Zone R-1-3 – Fence - Denied.
6. Application #2006-064, Boris and Galina Brin, 7-14 Essex Place, Block 6503, Lot 1, Zone R-1-3 – Driveway - Denied.
7. Application #2006-052, Andrew and Sara Cilderman, 28-03 Zachary Terrace, Block 3416, Lot 16, Zone R-1-3 – Addition - Approved.
8. Application #2006-053, David and Barbara Nicosia, 13-41 Burbank Street, Block 4607, Lot 5, Zone R-1-3 – Addition - Approved.
9. Application #2006-054, Michael and Alyssa Locascio, 0-160 Blue Hill Avenue, Block 1207, Lot 13, Zone R-1-3 – Addition - Approved.
10. Application #2006-057, Thomas McMahon, 9-19 Berdan Avenue, Block 5605, Lot 23, Zone R-1-3 – 4' Fence - Approved.
11. Application #2006-056, Vladimir Taran and Sergey Zavrazhnoz, 17-42 Hunter Place, Block 2803, Lot 15, Zone R-1-2 – Addition.

Mr. Charipper made a motion to approve these Resolutions and Mr. Newman seconded the motion.

VOTE: All Eligible - YES.

### **Minutes**

Mr. Newman made a motion to approve the minutes for the July 17, 2006 meeting and Ms. Spindel seconded the motion.

VOTE: All eligible - YES.

### **ADJOURN**

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

VOTE: All Present - YES.

TIME: 11:35 p.m.

Respectfully submitted,

Carol LoPiccolo  
Zoning Board Clerk