

BOROUGH OF FAIR LAWN ZONING BOARD OF ADJUSTMENT Regular Meeting Of November 19, 2007

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on November 19, **2007**.

Chairman Scott Levy called the regular meeting to order at 7:15 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present were: Chairman Mr. Scott Levy, Vice Chairman Mr. Douglas Charipper, Secretary Mr. Joseph Meer, Mr. Todd Newman, Mrs. Jane Spindel, Mr. Karas, Alt. #1 Mr. Benny Salerno, Alt. #2 Mr. Gary Sacchinelli, Alt#3 Mr. Brian Blecher, & Alt. #4 Mr. Marvin Diner,

Absent: Mr. John Nakashian,

Also in attendance were William Soukas, Board Attorney; Karen Kocsis, Court Reporter; Ann Peck, Assistant Zoning Officer and Cathy Bozza, Zoning Board Clerk.

Residential Old Business:

1. Application #2007-079, Shpendi Myrteza
2-06 Fair Lawn Avenue, Block 5622, Lot 46, Zone B-2
Existing 2 family in a B-2 zone- non –conforming use. Proposed driveway would increase the impervious coverage from 31.57% to 37.05% where 35% is permitted. Proposed deck would have 7.5' side yard setback where 1' is required. Would have deck coverage of 6.80% where 5% is permitted as per Section 125-12
Schedule of area, yard and building requirements. Driveway would have 0" side yard setback where 1' is required for driveways as per Section 125-48.C(7)

Mr. Levy swears in Mr. Myrteza. Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Myrterza, states that he is applying for a variance for a proposed driveway with revisions. The Board studies new plans.

Mr. Levy speaks to Mr. Myrteza and looks at the new plans, confirms that his house is located by 2nd street near the Fair Lawn Ave. Bridge in a two family house with limited parking. You have been cited with violations for parking on the street. You are seeking a variance to provide parking for the people who use the

house. You have indicated on the drawing that you are looking to put a four car driveway. 30ft. wide by 40ft. deep. There is no parking allowed on Fair Lawn Ave, correct?

Mr. Myrteza: That's correct. I sometimes park on 3rd Street at my neighbors and walk home. Sometimes I park at the ShopRite and walk home.

Mr. Charipper: Mr. Myrteza what would prevent you from parking nose to nose in the driveway? Would some of the vehicles be able to park one behind the other in the driveway rather than all four in the back?

Mr. Myrteza: Not all, in reality only two. He needs the four spaces.

Mr. Karas: The original application shows that you want to put a deck to the rear. Is that where the patio is now?

Mr. Myrteza: Yes, because I have a two family house and we don't have a fire escape, I want to add the deck and I want the neighborhood to look better.

Mr. Karas: In the application you ask for a very large deck that is 6.8%. Why do you need a deck that size? 12ftx13ft. it goes beyond what the ordinance provides.

Mr. Myrteza: It is not 12ft. It is 10ft. I made a revision to the deck. I made it 10x16.

Mr. Karas: Mr. Myrteza, on the revised plan, you show the parking of 4 cars to the east. In other words you are going down the driveway and making that turn. Why can't you have your parking at the end of the property so that you are in line with the driveway? It would use less space.

Mr. Myrteza: Actually, that is a good plan. I don't need it for luxury; I just want parking so that we don't have to park on the street.

Mr. Karas: If you are in agreement with that, I have no further questions.

Mr. Myrteza: Whatever the Board decides, I will do. I just want to park the cars.

Mr. Karas: "Would you consider a gravel driveway instead of a concrete or asphalt?"

Mr. Myrteza: Of course.

Mr. Levy: Ms. Peck what is the ordinance?

Ms. Peck: The ordinance requires that all driveways be paved.

Mr. Sacchinelli suggests another thought. The applicant said that he could get two cars in the current driveway and that he only needs space for two more. I would suggest he shorten the length of the proposed parking area by two spaces, twenty feet and leave the rest of it alone.

Mr. Myrteza: The problem is if someone goes to work early in the morning, they can't get to it.

Mr. Levy discusses options with Mr. Myrteza. Mr. Levy states that everyone has a driveway where they have to learn how to stack park. You have to move the cars around.

Mr. Myrteza replies that he already does. He leaves at 5:10 in the morning and moves the cars around.

Ann Peck brings attention to the Board that Mr. Myrteza cannot drive on the grass at any time because that was one of the things he was cited for.

Mr. Levy says he has a solution that would alleviate that.

Mr. Karas offers another suggestion. On the plan it shows 40ft. He does not need 10ft for each car.

Mr. Levy states that the applicant has agreed to cut this down to 20ft. Mr. Levy is scaling down with a scale ruler working on the solution.

Ann Peck confirms that he is taking off 20%, bringing the impervious coverage to 57.05 % on a lot that is only 3000sf.

Mr. Levy explains to Mr. Myrteza that he is trying to create a solution with reducing it by 20ft. because he knows he has a hardship. Mr. Myrteza discusses the change and reviews it.

Mr. Levy asks the Board if anyone else has questions. No one replies. Mr. Levy opens the application to property owners within 200ft.

Mr. Myrteza then objects to the change, stating that it is really going to be hard cutting out the 20ft.

Mr. Levy and the Board again review the plans.

Mr. Myrteza misunderstood the decision as to where the 20ft. was being taken from and after clarification he agrees to the decision.

Mr. Levy again opens up questions to property owners within 200ft.

Mr. Levy swears in Mr. LaPorte of 2-02 Fair Lawn Ave.

Mr. LaPorte: I own the property adjoining the driveway. He then hands pictures to the Chairman, who labels them 01/a set of 3 sheets of pictures for a total of 7 pictures. Mr. Laporte states that the first picture on the bottom is his old fence on the bottom where they tried to park in the narrow space. They destroyed the fence and he went for another permit to put the fence back.

Mr. Levy: Mr. Laporte, do you feel the situation was caused by the narrowness in the driveway? And are these other pictures showing how the cars are parked in the driveway?

Mr. Laporte: Correct. Mr. Myrteza states there are four cars when actually there are five. He has been parking there for two years and the ground runoff is running on my sidewalk and into my backyard across into the basement. You have to put some sort of drainage; it's a county road.

Mr. Levy: Mr. Laporte do you believe it is the parking that is causing a drainage problem?

Mr. Laporte explains that it used to be grass back there and now it's nothing but dirt.

Mr. Levy shows Mr. Laporte the revised sketch which shows what Mr. Myrteza would like to have had but instead he is willing to cut that in half and create a dogleg in which he is allowed to back out on that.

Mr. Laporte replies that Mr. Myrterza's property is only 30ft. wide and it is very hard to turn and he is hitting the fence now. I have a brand new house there now. We used to own his house, and no one ever parked in the driveway.

Mr. Levy asks: Where did you park?

Mr. Laporte: We parked elsewhere. That was the understanding when we bought the house, we were never was given a CO for the driveway. The house has been there 100 years.

Mr. Charipper: Mr. Laporte do you feel that Mr. Myrteza should not be able to have a driveway at all?

Mr. Laporte: Absolutely not. I'm a builder by trade. He needs underground tanks to take the water runoff. Where is he going to put the water? I have a brand new house next door and I have the tanks.

Mr. Levy: If Mr. Myrteza puts curbing down the length of the driveway, it shouldn't be a problem.

Mr. Levy discusses drainage issues and concerns with Mr. Myrteza. He states that he spoke with the contractor about the driveway, to make sure that nothing goes into his neighbor's property. He is not just putting the blacktop. He is not just building something and not thinking about his neighbor's. He will be putting a 4in. curbing all the way in the back of the property and the length of the driveway.

Mr. Laporte interrupts and states Mr. Myrteza will still have to get grades, he is over the limit and it is still a county road. It has to be a concrete curb. Asphalt breaks off and you end up with a problem.

Mr. Levy then directs his attention to Mr. Myrteza, stating that it must be concrete curbing or granite block. Preferably concrete. Mr. Myrteza agrees.

Mr. Levy asks if anyone else has questions?

Mr. Laporte then brings up a fence issue. He wants to make sure that the curb is going to be on "his" property. (Mr. Myrteza's)

Ms. Peck: Mr. Chairman, the two have a property line dispute that they have to work out themselves

Mr. Myrteza: I spoke with Mr. Laporte about a fence that I was thinking of putting up to which Mr. Laporte answered O.K. whatever. I paid for all the materials, did it myself, took a vacation and then I worked on the fence. Mr. Laporte then said to me, "Are you sure about everything?" I showed him the survey and told him I measured everything.

Then I see Mr. Laporte was coming on to my property and pushing the fence.

Mr. Levy: There is a dispute on the survey line and it is not the requirement of the Board to settle this. My advice is to get the survey checked out by a surveyor. This Board is not an Enforcement Board. There will be no more discussion on this.

Mr. Levy then opens the application to the General Public.

Mr. Levy swears in Howard Rubinstein of 28 Rutgers Terrace, Fair Lawn

Mr. Rubinstein: What is the width of the proposed driveway?

Ms. Peck: 7.5 and 7.7 that is the space between the house and the property line. The other side cannot be accessed because the house is on the property line.

Mr. Rubinstein: The driveway is only 7ft? Can you tell me, why we have the guidance sheet that tells us the setback for driveways between the two properties In 125-48-67?

Mr. Levy: When the ordinance was made, that is what they placed them at.

Mr. Rubinstein: What is the purpose of that?

Mr. Levy: The purpose is to show separation between the property lines. I didn't write the ordinance, I couldn't answer that.

Mr. Myterza then brings pictures up to the Chairman, who marks them a series of 7 photos A1 thru 7.

Mr. Sacchinelli explains that the only problem he sees is the water that will be going into the street with the new driveway. Will it cause potential flooding? Is there a catch basin at the end of the street?

Mr. Levy again goes over the proposed plan with the Board. This is at the end of Fair Lawn Avenue, by the Fair Lawn Ave. Bridge. The slope goes from East to West. Any water draining from all those sites come down the driveway, over the curb and into the river. There is no problem with flooding.

Mr. Myterza explains the pictures that show asphalt curbs of surrounding neighbors and indicates that what he plans to do with his property. Mr. Levy replies that it is "not to be done with asphalt" because of the breaking down and cracking. Concrete is the material to be used.

Mr. Myterza agrees.

Mr. Levy asks if anyone else has questions from the public. No One.
Mr. Levy closes that portion.

Mr. Levy then asks the Board if there are any questions.

Mr. Karas has problems with the approval of a plan when there are so many open questions about drainage, and also what is permitted and what is not. It should be shown on the plans.

Mr. Sacchinelli thinks that a catch basin should also be added to catch the overflow at the bottom of the driveway and also should be shown on the plan.

Mr. Levy agrees with both Board Members and speaks with Mr. Myterza explaining he understands that he has been before the Board previously, addressing this situation but there are still pending issues and concerns regarding this application.

Do you agree to carry the application until we have a resolution?

Mr. Myterza agrees to the decision.

Mr. Levy speaks with the Board and states that the applicant agrees to make changes to the application and revise the plans in order to accommodate the issues and concerns of the Board.

APPLICATION IS CARRIED TO DECEMBER 10, 2007

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.

Mr. Levy opens the application and addresses David Reiman, an attorney representing Mr. Steinberg for McDonald's.

Mr. Levy: Mr. Reiman, Mr. Steinberg agreed to meet today to work out a date to have this application heard in December and you are here representing him, correct?

Mr. Reiman: Yes, Mr. Chairman and the Board. I am here on behalf of Mr. Joseph Steinberg, representing McDonald's. Mr. Steinberg unfortunately cannot be here this evening. I am here to ask the Board to move the meeting to open dates in January. The dates that are proposed for December are not going to work because of Mr. Steinberg's schedule.

Mr. Levy: It was agreed upon at the last Board meeting with Mr. Steinberg to come here tonight with the understanding of having a December date available for the hearing.

Mr. Charipper suggests that Mr. Steinberg rearrange his schedule to help out the Board. Everyone was available for December 4, except Mr. Steinberg.

Mr. Reiman states that one of the reasons for the delay is that their office has not received the transcripts. We need to carry this application.

Mr. Levy explains that the problem with this matter being carried is that Mr. Steinberg's client continues to do things on the site that Mr. Steinberg guaranteed to him (Mr. Levy) that he wouldn't do. There are a number of issues here.

Mr. Karas speaks to the Board (council for the objector) and states that this matter has been going on for more than a year. We have continual violations on the McDonald's site. The fact that they are not available, or their witnesses are not

available, I really don't put a lot of credit in it. I really think this application has to move at this point. The date has to be set in December. If they are not available, that is their problem. We had a three month gap in the summer because of their unavailability. Transcripts are discussed and lack thereof.

Mr. Charipper: Mr. Chairman, I remember that you asked the Board Members if they did not have the transcripts, you went through that very carefully and it was made known on record that you went through the attendance and made requests for those transcripts and the scheduling to Mr. Steinberg's Office.

Mr. Karas makes a request to the Board that either we get dates tonight for a December meeting and if they don't show up, let the application be dismissed.

Dates are discussed for a hearing on December 10, 2007 or December 12, 2007.

Board decides to carry the application to December 10, 2007 to a Regular meeting pending the finalization that the courtroom is available on December 12, 2007.

APPLICATION CARRIED TO DECEMBER 10, 2007

Residential New Business:

1. Application #2007-091, Joe Patasso
23-14 Cambridge Road, Block 3222.01, Lot 17, Zone R-1-3
Existing lot is 5000sf where 6500sf is required. Lot frontage of 50' where 65' is required. The proposed side entrance would increase the impervious coverage of 41.22% to 41.77% where 35% is permitted. Would have side yard setback of 1.71' where 8' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Levy swears in Mr. Patasso. Fees of \$88.00 have been paid and there is proof of service.

Mr. Patasso explains to the Board that side of the house is a landing, 4ft.x5ft. He would like to enclose the landing and create a mud room. The side door opens out. He would like to have the door open in. Door does not open in because years ago they changed the inside of the house and the steps used to go down into the basement. Now they go upstairs. The landing was raised, so there is a step there when you open the door.

Mr. Levy asks Mr. Patasso you have indicated on the site plan, there is a canopy that exists and you want to enclose it. The four steps are made out of concrete?

Mr. Levy questions if adding the enclosure would not add any additional impervious coverage. It would not.

Mr. Levy asks the Board if anyone has any questions. No One speaks.

Mr. Levy opens the meeting to the public within 200' and to the general public, no one comes forward. Mr. Levy closes the meeting to the public.

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

VOTE: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Sacchinelli, Mr. Diner, Mr. Blecher, Mr. Charipper, Mr. Meer, Mr. Levy:
YES.

APPLICATION APPROVED.

2. Application #2007-092, Rita Jaye Milloer-Greenberg
335 Howard Ave, Block 3704, Lot 15, Zone R-1-3
Existing lot is 3648sf where 6500sf is required. Lot frontage of 50' where 65' is required. Proposed addition would increase the building coverage from 33.13% to 37.92% where 25% is permitted. Would increase the impervious coverage from 52.12% to 52.72% where 35% is permitted. Would reduce the existing front yard setback from 20.20' to 19.95' where 25' is required. Would have a FAR of 64.14% where 40% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Levy states that the Board Councilor lives within 200ft. of the applicant, but has no bearing or bulk on any application. He advises the Board on the legal matters only. Let that be known for the record.

Mr. Levy swears in Mr. Robert Epstein, co-owner of the house. Fees totaling \$88.00 have been paid and proof of service.

Mr. Epstein explains to the Board that he and Rita Milloer are an extended family, and between them they have 5 children. They live in a 3bedroom home and are looking to add another bedroom and enlarge the house slightly. We are adding a porch in front and in the back a two-level addition but kept it within the square of the house and adding on top of the garage.

Mr. Levy: Is this a Radburn House?

Mr. Epstein: Yes, it is.

The Board reviews the plans and pictures of the existing house and existing homes within the area.

Mr. Levy: All you are doing is raising the roof up in the area. The structure is staying the same.

Mr. Epstein: Yes, we are raising the roof of the garage to the existing roof line and squaring off the back of the house.

Mr. Levy: You are not extending the back yard or anything?

Mr. Epstein: No

Mr. Levy: Any Member of the Board have any comments or questions? No one with questions.

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. Meer made a motion to approve this application.

Mr. Soukas would like to point out that this is a FAR and it is also being reflected As a 5 to 2 vote. Criteria or the text for the Board to use is whether or not the property can accommodate the issue that is exhibited for the area.

Mr. Levy: Let me explain to the applicant this is a FAR. You asked for a variance from what is required and what is proposed. Because of that it brings it to a d-variance. There are certain rules and discussions that the Board has to weigh because of that variance. You need a requirement of 5 votes in order to be approved.

Mr. Karas: This is a substantial undersized lot in the Radburn Section of Fair Lawn, and I have a problem with this application. In one of the photographs, It shows the property next to the existing garage is very close. This addition, including the second story will impair the light to the next store property. I also have a problem with increasing the FAR. My vote is NO.

Mr. Newman: Not to totally disagree with my colleague. This is an undersize lot With a existing building and lot coverage request for a increase in the building coverage. A FAR of 64.14%. It is probably not very different from the existing FAR. Unfortunately, it isn't listed. Looking at the footprint now, it is identical to numerous neighborhood conditions of the same type. The hardship is clear. I don't think in any way, shape or form it has any effect on the zoning ordinance. My vote is YES.

Ms. Spindel: I have to agree with both of them. In one aspect, Mr. Karas is correct in saying everything is so close together, but then again it is such a close

line from the existing FAR and considering the hardship, I'm going to have to vote YES.

Mr. Salerno: YES

Mr. Charipper: YES

Mr. Meer: I am voting in favor of this because of the undersized lot which is a definite hardship. Lots are small in Radburn and therefore it would be in conflict with the new FAR ordinance that just passed. I vote YES

Mr. Levy: Although this is in the Radburn section, there are certain readings that need to be in place regarding the FAR. It is a small lot, a pre-existing lot. Looking at the plans they could be redesigned within the house to alleviate the closeness of that property in addition to your next door neighbors. I vote NO.

VOTE:

Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Sacchinelli, Mr. Diner, Mr. Meer, YES

Mr. Karas, Mr. Levy, NO

Mr. Meer: Motion carried 5 to 2

APPLICATION APPROVED.

3. Application #2007-093, Joseph Mele
15-25 11th Street, Block 5702, Lot 13, Zone R-1-3
Lot frontage of 50' where 65' is required. Proposed addition would have side yard setback of 5.32' and 7.68' where 8' is required. Would maintain existing height of 33.16' where 30' is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Levy swears in Joseph Mele. Tells the Board of his extensive history in Engineering. He has testified as an expert witness throughout New Jersey in Counties of Bergen, Passaic, Morris, Middlesex and Monmouth.

Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Mele speaks to Mr. Levy telling him the basis of the application. He and his wife have a 7year old and two 3yr. old twins. The lot that they are situated on is a 50ft wide by 145.74deep lot. It is a two and a ½ story dwelling with a two car detached garage with a long driveway. The house has two bedrooms, one and a half bath, with a family room. The intent of our application is to add two additional bedrooms on the second floor and one full bathroom and to increase

the size of the backyard. If you look at the footprint you can see that the garage and the house are pretty far separated from each other. We are looking to attach the two car garage with the house and bring the structure closer and making it one with the house. It will then be a one car garage that we plan to build closer to the street. The entire front of the house will not change. We would be building the addition above the garage, demolish the existing family room and built up a second level. The front of the house will not change. The open porch will remain. We will then demolish the driveway and add a new driveway because the existing one is in bad need of repair anyway. We ask the Board's permission to approve this variance. We are under the FAR reducing the impervious coverage.

Mr. Levy asks if anyone on the Board have any questions.

Mr. Levy: Mr. Mele, I thought you were over the FAR, but in essence you are not, but because you are over the existing height of 33ft. and 30ft. is the required height, even though it's existing you are still required to have d-variance due to 10% overage.

Mr. Mele: If I were to lower the height so that it is just below the 10%. I would have to be at 32.99'.

Mr. Levy explains he would have to lower the new addition roofline to 32.99%.

Mr. Mele agrees.

Mr. Levy opens the application to anyone within 200ft. No One comes forward. Mr. Levy closes this portion.

Mr. Levy opens the application to the General Public. No one comes forward. Mr. Levy closes this portion.

Mr. Newman makes a motion to approve. Mr. Meer seconds the motion.

VOTE: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Salerno,
Mr. Charipper, Mr. Blecher, Mr. Sacchinelli, Mr. Diner, Mr. Meer, Mr. Levy,
YES

APPLICATION APPROVED.

4. Application #2007-094, Violetta & Boris Kopeykin
3-49 27th Street, Block 3403, Lot 2, Zone R-1-3
Existing lot is 6000sf where 6500sf is required. Lot frontage of 60' where 65 is required. Proposed addition would have front yard setback of 20.27' where 25' is required. Would maintain existing side yard setbacks of 7.5' where 8' is required as per Section 125-12 schedule of area yard and building requirements.

Mr. Levy swears in both Mr. & Mrs. Kopeykin.

Fees of \$88.00 have been paid and there is proof of service.

Mrs. Kopeykin explains she would like to add an addition to the back of the house that measures approximately 16'x16' and remove the old deck and put a new deck next to the addition.

Mr. Levy: You will maintain the existing height and the deck conforms but you also want to put an enclosed porch to the front, Correct? That is why we are over.

Mr. Levy looks at the pictures of neighboring properties with similar structures.

Mr. Levy asks the Board if they have any comments or questions.

Mr. Levy opens the application up to the public within 200'. No one comes forward. Closes this portion.

Mr. Levy opens the applicant to the general public. No one comes forward. Closes this portion.

Mr. Meer makes a motion to approve the application. Ms. Spindel seconds the motion.

VOTE: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Meer & Mr. Levy, YES

APPLICATION APPROVED.

5. Application #2007-095, Gerald and Annette Kranson,
5-01 River Road, Block 5401, Lot 42, Zone R-1-3
Existing lot frontage of 62.47' where 65' is required per Section 125-8

Mr. Levy swears in Mr. & Mrs. Kranson.

Fees totaling \$88.00 have been paid and there is proof of service.

Mr. Levy: Mr. Kranson, the only reason that you are here is because you have an existing front lot of 62.47' where 65' is required. Correct?

Mr. Kranson: That is correct, and the reason for that is the road curve in the front of the house. If you go 10ft.back on the property it's 70'long.

Mr. Levy: You do have an odd shape lot, so if you measure from the base of the building, you have approximately 75'. Correct?

Mr. Kranson: Correct.

Mr. Levy asks the Board for any comments or questions. No one

Mr. Levy opens up the applicant to the public within 200'. No one comes forward. Closes the portion.

Mr. Levy opens up to the general public.

Mr. Levy swears in Harvey Rubinstein, 28 Rutgers's Terrace, Fair Lawn.

Mr. Rubinstein: Based on the agenda, I don't understand what this application is for.

Mr. Levy: They are here because what they want to do on the house is in the requirements of the variance based on lot frontage. It is a requirement of 65' and they only have 62.7'. They want to put an addition on which measures 11ftx14ft.in length.

Mr. Rubinstein accepts reason from Mr. Levy.

Mr. Levy opens up portion to general public. No one steps forward. Closes the portion.

Mr. Newman makes a motion to approve application. Mr. Charipper seconds the motion.

VOTE: Mr. Karas, Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper, Mr. Meer & Mr. Levy, YES.

APPLICATION APPROVED.

6. Application #2007-096, Raheel and Naseem Faizi
6-13 Christie Place, Block 3521, Lot 6, Zone R-1-3
Existing lot is 4370sf where 6500sf is required. Lot frontage of 46' where 65' is required. The proposed addition would have existing front yard setback of 5.4' where 35' is required. Would increase the existing building coverage from 26.4% to 31% where 25% is permitted. Would maintain the existing impervious coverage of 45% where 35% is permitted. Would have a FAR of 46% where 40% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Mr. Levy swears in Mr. & Mrs. Faizi

Fees of \$88.00 have been paid and there is proof of service.

Ms. Faizi explains to the Board that she would like to put an addition because they have a big family and they need more room.

Mr. Levy: what you are doing is adding a 2nd floor to this building and you are not extending beyond the building that exists now? If you look at the pictures, there are cantilevers that extends it. You are maintaining the 45% impervious coverage. Because of the FAR, you need five affirmative votes in order for this application to pass.

Mr. Newman: Why the cantilevers? Why is the addition being designed done with the cantilevers? Have you considered any other designs?

Mr. Levy tries to explain to the applicant what Mr. Newman is asking. There is a language barrier.

Ms. Faiza explains because of mother-in-law, and daughters that live in the same residence they need additional room for all their stuff.

Ms. Spindel: What is the sf of the existing house and how much bigger is it compared to the original sf of the home?

Mr. Levy: Is there an original site plan? Discussions are done among the Board. Drawings are reviewed.

Mr. Levy opens applicant to the public within 200'. No one steps forward. Closes the portion.

Mr. Levy opens the applicant up to the general public.

Mr. Levy swears in Harvey Rubinstein, 28 Rutgers Terrace, Fair Lawn

Mr. Rubinstein: What is the height of the addition?

Mr. Levy: The height will be 25'.

Mr. Levy closes the portion to the general public.

Mr. Meer makes 1st motion to approve application. Mr. Newman seconds the motion.

VOTE: Mr. Newman, Ms. Spindel, Mr. Salerno, Mr. Charipper,
Mr. Meer & Mr. Levy YES.

Mr. Karas: NO

APPLICATION APPROVED.

7. Application#2007-097, Leonard & Robin Prinz
12-55 4th Street, Block 5619, Lot 21, Zone R-1-3
Existing lot is 4998.17sf where 6500sf is required. Lot frontage of 50' where 65' is required. Proposed addition would increase the building coverage from 21/50% to 27.24% where 25% is permitted. Would increase the impervious coverage from 36.26% to 42% where 35% is permitted. Would maintain existing front yard setback of 20.1' where 25' is required. Would maintain existing side yard setbacks of 5.8% and 6.1 where 8' is required. Would have a FAR of 52% where 40% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Fees of \$88.00 have been paid and there is proof of service.

Ronald Mondello, attorney representing Mr. & Mrs. Prinz states outline for the application. He has brought two witnesses, Mr. Esposito and Mr. Prinz. This is a dwelling of approximately 1200sf. The applicant is proposing to enlarge that with an addition. There are currently four variances that are listed on the plan. We are removing the height variance because we spoke with the architect today who will reduce that to 30'. Our most controversial would be the FAR variance. With that, I'd like to bring up my first witness.

Mr. Levy swears in Mr. Esposito.

Mr. Mondello, asks Mr. Esposito how long he has been in the contracting business?

Mr. Esposito: I live in Rochelle Park, N.J. I am a contractor for 12 years and have worked on 150 to 250 homes.

Mr. Mondello: You are familiar with the plans and have recently visited the site. Please go ahead and explain to the Board what Mr. & Mrs. Prinz plan to do.

Mr. Esposito explains that Mr. & Mrs. Prinz resides in a really small home and they want to expand the living space to accommodate a growing family. They would like to give their children each an individual room of their own and also a master bedroom for themselves upstairs.

Mr. Mondello asks Mr. Esposito to explain the small home in sf.

Mr. Esposito replies, the first floor is under 900sf, and the second floor is approximately 400sf.

Mr. Mondello: What do they want to do with the back yard? Do they want to extend the addition to the back yard?

Mr. Esposito: Yes, It is going to be 10ft. past the existing home and it will be 28ft, wide.

Mr. Mondello: No other questions for Mr. Esposito.

Mr. Levy: You are reducing the height. You are creating an addition that would be two-story high in depth. Does it fit in to the character of the neighborhood?

Mr. Esposito states in no way would it be a McMansion and would be an asset to the neighborhood.

Mr. Levy questions the width of 28ft.the depth is 10ft. Why place the addition at the end of the house instead of 10ft. why couldn't it be 5ft?

Mr. Esposito explains that if you take away from the second floor, and you look at the blueprints of the children's room, the rooms would be substantially reduced.

One of the children's bedrooms is 13ft. deep and if you take away 5ft. it will be only 8ft. If you were building the home from scratch, you would be able to alter it, but since they are keeping the existing house, you are limited to how you can manipulate the stairwells and the footprint the way it is and expand the house without removing the whole house and starting from scratch.

Mr. Levy: Anyone from the Board has comments or questions?

Ms. Spindel: I respectfully disagree with building this addition on this house and expanding because most of these homes are capes and although there are homes around the area that have been expanding, this will certainly be the biggest house on the block.

Mr. Esposito refers to a photo from 12-53 4th street and explains they although it is somewhat narrower, it still maintains the group lines and the basic look of the house that the Prinz's are attempting to build.

Mr. Karas asks why on the 1st page of the site plan the garage was not included with the calculations in respect to the sf on the first floor.

Mr. Mondello answers and explains the reason it is not included in the calculations is that it is Non-Habitable space.

Ms. Peck: If you look at the plans, the impervious coverage calculation is above it and that is the FAR. The FAR garage, if it is under 400sf is excluded from a FAR. When you talk about the garage being excluded, that is from the FAR calculation, not the impervious coverage.

Mr. Levy opens the meeting to the public within 200'. No one comes forward. Closes this portion.

Mr. Levy opens the meeting to the general public No one comes forward. Mr. Levy closes this portion.

Mr. Mondello calls for next witness, Mr. Prinz.

Mr. Levy swears in Mr. Prinz.

Mr. Mondello: Please introduce yourself to the Board.

Mr. Prinz: My name is Larry Prinz, I live at 12-55 4th street in Fair Lawn and explain to the Board that he has lives in the house with a 7yr. old and a 4 year old who are now sharing one room with bunk beds. He wants to give them their own room. He also wants to expand to accommodate family for visits. The inside of the house is very small and there is hardly any room whatsoever to have any family over for dinner or anything because of the size of the kitchen and dining area.

Mr. Mondello: There will be no other questions Mr. Chairman. Thank you.

Mr. Levy asks the Board if there are any comments or questions. No One

Mr. Levy opens the meeting to the public within 200ft. No one comes forward. Mr. Levy closes this portion.

Mr. Levy opens the meeting to the General public. No one comes forward. Mr. Levy closes this portion.

Mr. Mondello in his closing statement explains that this is a modest application given the scheme the fact that it is an undersized lot. I would say that the positive criteria breakdown overrides the negative criteria and the only detriment is the variance that is required. This family has lived in this town for decades and they are simply looking to enlarge their house and have a separate bedroom for each of their children and that Ms. Prinz was going to get her life-long dream of having a walk in closet.

Mr. Newman makes 1st motion to approve. Mr. Salerno seconds the motion.

Mr. Karas: As indicated, this is a substantial small size lot for a second story addition and a deck. The deck requirements are ok. It meets the zoning board requirements but the second story would increase the building coverage to 27.24% and impervious coverage to 42% from the FAR to 52%. I believe that the Far ordinance that was enacted was enacted in connection with applications of this kind, which I believe is a McMansion. If you want to see what this type of application does to a neighborhood, drive down your street where the character of the neighborhood has substantially changed because of the granting of variances on that block. Accordingly, my vote is NO. Sorry.

Mr. Newman: This is an undersized lot, but some of the variances being sort are pre existing setbacks, but the hardships are clear and it is very close to where we should be looking at it but I don't think the lot size is really adequate, so my vote is YES.

Ms. Spindel: My vote is NO. I agree with both of my colleagues with the measuring of the FAR it is at a 12% overage.

VOTE: Mr. Newman, Mr. Salerno, Mr. Charipper, Mr. Meer & Mr. Levy, YES

Mr. Karas, Ms. Spindel, NO

Motion carries 5 to 2

APPLICATION APPROVED

COMMERCIAL NEW BUSINESS

1. Fair Lawn Jewish Center
10-10 NORMA Ave; Block 4530, Lot 1, Zone R-1-3
Appeal the determination of the zoning officer related to the September 26,
2007 Cease and Dismiss Order.

Roll Call: Mr. Newman, Mr. Karas, Mr. Charipper, Mr. Salerno, Mr. Sacchinelli,
Mr. Blecher Mr. Diner, Mr. Meer & Mr. Levy. PRESENT.

Mr. Levy: Let the record show that Mr. Diner recused his self.

Mr. Jeffery Herrmann: Good Evening, Mr. Chairman and the Members of the Board, My name is Jeffery Hermann, I am a member of the firm, Cohn, Lifland, Pearlman Herrmann & Knopf, we have the privilege of representing the Fair Lawn Jewish Congregation Banai Israel. I will be very brief in the opening, and then I will introduce the first of two witnesses I have here this evening.

We are here on appeal of interpretation by the Zoning Ordinances by the Zoning Official, specifically on September 26, 2007 Cease & Dismiss Summons that was issued. This was issued on two bases. The first being the entity conducting basketball activity was a for-profit school. In fact, as we demonstrate there is a tenant of the synagogue that operates basket-ball leagues and it is a non-profit organization. Secondly, and more importantly, is that the playing of basketball is a prohibited activity; it is not permitted in our building because it was claimed by the Zoning Official that it was a secondary use. This is a question of Law, and the question is whether or not playing basketball in the gym in the building is an accessory use, as contained in the clause of our zoning board ordinances, accessory use, meaning incidental, supporting the main function of the synagogue or whether it is something very different. The Fair Lawn Jewish Center has been a place of worship, but it has also been a center for Educational Program and Recreational Programs, not just for the members but for the community on the whole.

Our first witness is Rabbi Simon Gluster, he is the Rabbi Merit for Synagogue. Our second witness is the immediate past president for the Synagogue, Mr. Leonard Kaufman. You will hear from these witnesses the history of the building, how it came to be when the different structures were created and how they were used and you will see that the gym has been used for basketball for over 55 years and it is an intricate part of the Fair Lawn Jewish Center and has been throughout that time period. Many, many people gathered here tonight because they are concerned that their house of worship is being subjected to Government intrusion. They don't understand why their House of Worship has been singled out, out of all the Houses of Worship in the town. The activity that has gone on since the beginning, basketball play is now suddenly claimed by a town official to be a prohibited activity. They are concerned that if this is upheld what is the next thing that a town official is going to say is a prohibited activity.

The Law in our state, and the Law throughout the Nation allows the use of Gyms by Religious Institutions and we have provided a memo of Law to you and your council. At this point, after you listen to the witnesses and the facts and consider the Law, you will find that the Zoning Officer made an error and you will find that the use in question is provided for under our Borough Zoning Ordinances. Thank you.

Mr. Levy: Council, for the record, let me introduce now the Attorney's for the Objective.

Attorney for the Objective introduces himself. Stuart Lieberman

Mr. Lieberman: Thank you, Mr. Chairman. Good Evening, Members of the Board. My name is Stuart Lieberman, I am from the firm of Lieberman & Blecher, with my colleague Mara Epstein. We represent the Ann Brodsky.

Mr. Lieberman questions Mr. Levy as to whether he can question the witnesses as they speak or do we question after?

Mr. Levy: We cross examine each witness after they speak. I also want to mention to council, Mr. Herrmann brought up in his opening statement that he believed that the House of Worship was singled out. I don't believe it was singled out; my understanding was that there was activity that had taken place and there was disruption within the neighborhood and the Zoning Officer made a judgment based on that and not based on the status of the Fair Lawn Jewish Center.

Mr. Herrmann: My point is, Mr. Chairman, based on similar activities, basketball activity is conducted in all of the Houses of Worship around town, and this is the only situation in which you see a Cease and Dismiss Order.

Mr. Matthew DeMaria, Attorney for Robert & Melissa Wallace introduces himself.

Mr. DeMaria: Two items I would like to bring to the Board's attention, it was mentioned that a memorandum of Law was submitted to the Board. That memorandum was dated November 15. I received a copy of it on the 16th and I attempted to file a position paper of memorandum of Law today and the Board Secretary did not receive it. I would like to submit that to the Board now so that it can become part of the record.

The second question I have is: Will we be hearing from the Zoning Officer herself or himself?

Mr. Levy: Yes, we have a representative from the Zoning Board Office

Mr. Herrman calls First Witness.

Mr. Levy swears Mr. Simon Gluster.

Mr. Gluster: I am here because I am a relic of the past. (Laughter) I am living in Hackensack, N.J. now but I was Rabbi of the Fair Lawn Jewish Center for 41 years before it was combined with Banai Israel. I arrived in 1950.

I was the first Rabbi that stepped into the Fair Lawn Jewish Center. There was a lot of mud at the entrance because the building was not completed yet. I want to introduce my remarks by saying, I am not an advocate tonight and I am not going to give an opinion, but I want it to be information and I made it very, very clear to Jeffery Hermann when we spoke over the phone.

Mr. Herrmann: Can you describe the building when you first came in 1950.

Mr. Gluster: The Fair Lawn Jewish Center was not yet formed. Some people wanted to have a Jewish Community Center, like a Y. Other people wanted a synagogue. This was a ran institution, with a chapel sitting 80 people, an all-purpose room which included the Gym, dances, all social events and also after a short period of time it also incorporated a synagogue because there was not enough room in the chapel. Soon after opening we used this all purpose room and it was used for

multiple purposes. In 1950, you had the all purpose room, the Chapel, Three classrooms and that was it. We had basketball where the youngsters would play after school, where the Father's would come in the evening and there were competitive sports with other Y's and Synagogues.

The Gym was a very important part of the Fair Lawn Jewish Center with all the activities that were supposed to appeal to all taste of the membership and it wasn't until 1958 when the Sanctuary was built that the all purpose became the Gym and was no longer used for religious purposes or for dances.

Throughout my years at the Fair Lawn Jewish Center, you had a basketball gym for many people of all ages, and that is how it remained until I left and I left in 1991.

Mr. Herrmann: Was there any changes to the physical structure of the Gym after it was built?

Mr. Gluster: No basic changes, perhaps enhancements. Stands were put there for people to watch the games, but no structural changes to the Gym.

Mr. Herrmann: There were structural changes to the bounds of the building, were there not?

Mr. Gluster: Yes, there were three stages, in 1958 & 1972. In 1958, the Sanctuary was built and then in 1972, rabbi study offices were put up front and a library and rooms were added on to accommodate the growing membership.

Mr. Herrmann: I have no further questions.

Mr. Levy: Any one from the Board have any questions for the Rabbi? No one

Mr. Lieberman, Attorney for the Objective steps forward.

Mr. Lieberman: Good Evening, Rabbi, it's nice to see you. Rabbi, it is your testimony that this Gym was in use from it's inception in 1950, is that correct?

Rabbi Gluster: Correct.

Mr. Lieberman: They have been playing basketball there since 1950 and during those years do you know whether they were charging rent for the basketball games?

Rabbi Gluster: I don't think so.

Mr. Lieberman: What was happening from 1950 through 1991 is that the Synagogue was allowing use of the Gym basically as part of the facility so that there could be leagues for the members of the Synagogue children. Isn't that what was happening?

Rabbi Gluster: Outside groups were also invited to play against the teams at the Center.

Mr. Lieberman: In other words, the teams of congregate from the synagogue would need teams to play against, so they would involve other Houses of Worship, from JCC's and that sort, but at no time from 1950 to 1991 do you remember them renting the Gym for any kind of business whether it for profit or non-profit, is that correct?

Rabbi Gluster: No, not to my knowledge.

Mr. Lieberman: Thank you. That is all.

Mr. Levy: I have a question, in your tenure there, had the facility been rented out for other activities, other than basketball?

Rabbi Gluster: Yes, Weddings and Social Affairs and also some organizations such as Hadassah and other Organizations that pays an annual fee to cover expenses for the custodians and so forth.

Mr. Levy: Those Organizations had no affiliation to the facility.

Rabbi Gluster: No, no formal affiliation.

Mr. DeMaria: I have some questions. During your tenure there, was there a Mission statement for the Jewish Center?

Rabbi Gluster: What do you mean by that?

Mr. DeMaria: Was there ever anything in writing or acknowledged to the mission of the Jewish Center, the purpose?

Rabbi Gluster: Well, you have your Constitution. It can be examined. It is available.

Mr. DeMaria: That is available at this point now also?

Rabbi Gluster: I would assume. Sure.

Mr. DeMaria: You also indicated that there were no basic changes to the Gym while you were there, correct?

Rabbi Gluster: No structural changes.

Mr. DeMaria: Are you familiar with the current activities that are occurring at the Gym at this time.

Rabbi Gluster: Yes, I have heard about them.

Mr. DeMaria: Are you familiar with the scheduling of the games and so forth?

Rabbi Gluster: No, I'm not. I know nothing about the scheduling of games.

Mr. DeMaria: If I were to indicate to you that there were over 200 games scheduled for the period of September 3rd through December 3rd. would that be similar to how many games were scheduled or played while you were there as Rabbi?

Rabbi Gluster: All I can tell you is that almost every afternoon and most evenings with the exception for the Sabbath, the Gym was being used not only for basketball but other games too.

Mr. DeMaria: Those games were for Members of the Jewish Center against themselves or other teams, is that correct?

Rabbi Gluster: Correct, Intramural.

Mr. DeMaria: No further questions. Thank you.

Mr. Levy: Anyone from the Board have questions?

Mr. Newman: When were the bleachers put in?

Rabbi Glusterman: I think the bleachers were put in so that members of the family could observe the games.

Mr. Newman: Do you know what year, approximately?

Rabbi Gluster: No, I would not.

Mr. Newman: Were they put in while you were there?

Rabbi Gluster: Yes, to my knowledge.

Mr. Levy: Any other questions from the Board?

Mr. Levy opens questions to the Rabbi and the General Public. Seeing no one. Mr. Levy closes this portion.

Mr. Herrmann calls next witness: Mr. Leonard Kaufmann

Mr. Levy swears in Mr. Kaufmann.

Mr. Herrmann: Mr. Kaufmann, can you tell us your address?

Mr. Kaufmann: I live at 7-09 2nd Street in Fair Lawn, N.J.

Mr. Herrmann: What is your occupation?

Mr. Kaufmann: I am an Attorney.

Mr. Herrmann: Are you testifying this evening as a fact witness or as expert?

Mr. Kaufmann: I am testifying as a fact witness as the immediate past, present president of the Fair Lawn Jewish Center Congregation B'nai Israel of May 2005 until May 2007.

Mr. Herrmann: Are you familiar with the activities of the F.L.J.C.

Mr. Kaufmann: I think I generally am, Yes.

Mr. Herrmann: I'm going to take a few minutes to talk with you about the activities that take place within the building. First, do these activities take place at the present time and for how long? Prayer services?

Mr. Kaufmann: Yes. We have prayer services since its inception, I'm certain.

Mr. Herrmann: Is there a Hebrew school conducted.

Mr. Kaufmann: Yes, there is. We have had for a long time a Hebrew school and the purpose for that is to educate our children in their culture, their faith and their religion.

Mr. Herrmann: You also have a Nursery school, correct?

Mr. Kaufman: Yes, we also have a Nursery school for as long as I can remember. My own children attended the school. One of the main things the Synagogue does as far as Educational programs, not just for our children but we also have classes for Adults. We have one on the Bible. We have one currently going on a weekly basis, having to do with Religion and environment. We have a Scholar's Residence Program that occurs once a year. We have Lecture's that are open to the General Public as well.

Mr. Herrmann: How about Cultural Programs?

Mr. Kaufmann: That is also a big part of what we do. Our own culture here through the Jewish Community of America. We have cultural programs regarding Israel, we have programs that relate to general events that go on in our community as well.

Mr. Herrmann: Is there any Community Service Programs?

Mr. Kaufmann: Very much so. We host and participate in Ecumenical services. We hosted the Ecumenical Thanksgiving service that rotates from Church, Synagogue and various religious institutions. We have social gatherings for instance in the winter where we have coats and food, and distribute them to those in need. We house Organizations that are not affiliated with the Fair Lawn Jewish Center but engage in activities that one would expect to see in a Jewish center, for example, there is an organization called Tomchei Shabbat and the purpose of the organization is that would be to distribute food on the Sabbath to those who are unable by physical means, or those who unable by financial means to secure it for themselves. In our building, throughout the course of the week the food is gathered and prepared for the Sabbath and then taken to the residents to whom the food is needed. That is just an example.

Mr. Herrmann: What about Athletic Programs?

Mr. Kaufmann: As you heard the Rabbi testify, we have had Athletic programs since its inception. This is a wide variety of athletic events that take place, not just today but historically. Most of them occur in the Gymnasium. It has hosted Volleyball, Hockey, indoor Football, and Softball activities. Of course, Basketball has been played there continually and in many different formats as well.

Mr. Herrmann: Has the Center ever rented any portion of the Gym or rented the Gym to any outside organizations?

Mr. Kaufmann: Yes, we have rented the Gym to different schools. There is a Hebshiba that is currently renting or has rented in the last few years. It is my understanding that we have rented it to the Board of Education on Sundays. We may have also rented to All-Sports. Those are just the types of organizations to whom we have rented.

Mr. Levy: Please, for the record, identify who All-Sports is.

Mr. Kaufmann: Yes, All-Sports is a Non-Profit Organization which conducts Athletic activities. I am familiar with baseball leagues, basketball and soccer leagues that they conduct.

Mr. Levy: That is mainly a Fair Lawn Organization, correct?

Mr. Kaufmann: My understanding is that it is entirely a Fair Lawn Organization.

Mr. Herrmann: Let's talk about basketball. It is your testimony that basketball is played continually.

Mr. Kaufmann: Yes, I moved to Fair Lawn in 1981 and joined the Jewish Center within a few months after that and I can tell you from observation that I have seen the trophy's that are in the gym for leagues that existed there in the 1960's. I know personally in talking with residents my own age who would have grown up in the 1960's they have told me about their own personal experiences playing basketball and being members of leagues in basketball in the Fair Lawn Jewish Center where the games took place. Subsequently to 1981, the gym has been used for a variety of basketball activities, including the following. Pick up games. The men would come down to the gym and whoever was there, the first five would be on one team, and the second five would be on another and they would just play. That would be not only for the members of the Jewish Center but also for the general community as well.

There were leagues for children; I coached my own kids in the all-sports activities. I coached them for basketball in the F.L.J.C. I participated myself in leagues, whether or not you were a member of the Center. The leagues had fees. The leagues had scoreboards with buzzers and the officials had whistles. This occurred in the late 1990's up until early 2000.

Mr. Herrmann: Why does the Synagogue engage in basketball?

Mr. Kaufmann: To answer that question, I have to talk a little bit about what the Fair Lawn Jewish Center really is. It is a place where we go to pray. That is the essence of what a Synagogue is, but it's interesting that in Hebrew, the word Synagogue does not translate directly. It is called many different things. For instance, House of Prayer. Certainly that is what it is, but another description is a place where people gather. That is what the Fair Lawn Jewish Center has been, is, and I hope always will be a place where we as Jews can find ourselves and help define ourselves as a community and where we can create not just our own community but be part of an influence of a larger community. That is why activities other than a Prayer service, which occur twice daily, occur in the building. We understand that as Jews there is more to being Jewish than just pray, although that again is the essence, I think anyway, I am not a Rabbi, but as a lay person, someone who has tried to build the Jewish Community, that is what we try to do. That is why we have educational programs. That is why we teach our children. That is why we have cultural programs because to be Jewish is to understand that Judaism has many different facets. Religious, Educational, Cultural, Social and the athletic is part of building the community through social and informal needs. It is important to us that our children and indeed our adults not just to pray with one another but to play with one another and to come together and learn to cooperate and associate with others. We learn to associate not with just those who are Jewish but to learn to associate with others in the community. That is why the basketball programs put open portions of it. We could learn about others, in an informal way and hopefully

others could learn about us. For many, many years, one of the problems that the religion has had is that there has been a divide between Jews and Non-Jews. We did not know them and they did not know us, so imagine having an ability for people to be in our building and to participate in an activity with us and say "I know a Jew, their o.k. I have been to their building and I've played basketball with them. I respect that. That is a way to build a positive community and that is why athletics are an important part of what goes on in the Fair Lawn Jewish Center.

Mr. Herrmann: I want to show you something dated September 26, 2007 and ask if you recognize it and tell us what it is.

Mr. Kaufmann: Yes, this is a copy of a Cease & Desist order issued by the Assistant Zoning Officer.

Mr. Herrmann: This is the basis of the appeal by the Synagogue.

Mr. Kaufmann: Yes, it is.

Mr. Herrmann: For the record, I'd like to mark this as exhibit A1. A copy of this has been provided for everyone.

Mr. Herrmann: Are you familiar with an organization called International League of Basketball?
Do you know what its status is?

Mr. Kaufmann: Yes, I believe it's a corporation.

Mr. Herrmann: Is it a For-Profit or Non-Profit Organization?

Mr. Kaufmann: My understanding is a Non-Profit Organization.

Mr. Herrmann: Also including with the A1 that we marked are two documents which I am going to show you first the document dated April 12, 2000. Can you please tell us what this is?

Mr. Kaufmann: Yes, in response to our request for verification of the Non-for-profit status, I was provided with this document that indicates there is a tax-exempt status. I believe the IRS code number is 501C3. Also in this document is a copy of an exempt organization permit issued by the state of New Jersey.

Mr. Soukas: Mr. Herrmann, can you please go over how the Center came into possession of this IRS letter that was directed to the International Youth Basketball League. I assume it is a business record.

Mr. Herrmann: It is a business record that is supplied to us by Council for the International Youth Basketball League.

Mr. Soukas: It was maintained in the ordinary course of business?

Mr. Herrmann: Yes. It was maintained in the ordinary course of business in the entity.

Mr. Herrmann: Are you aware of a lease between the Synagogue and the Organization of the International Youth Basketball and why did the center enter into this?

Mr. Kaufmann: Yes and as I mentioned, there were leagues that the Center ran and that went on for many years. It was run by members of the F.L.J.C. who were responsible for the recruitment for the management of the money, to organize the leagues, for getting the officials. It became too big for us to handle and the opportunity arose through connections and I don't really recall who approached it first for International Youth Basketball to rent out the Gym for the same purpose, and we negotiated a lease with them. The leagues continued and expanded but now under the offices of the International Youth Basketball Leagues. It was an opportunity for us to provide a service and also, quite frankly an opportunity to increase the income from this activity. An income the center always had, but it was a significant increase of income by the spring. I believe that the initial lease was August, 2002 and I think that we are into our 5th year with our association with the Organization.

Mr. Herrmann: Were there ever any complaints by the neighbors in the vicinity of the Center when you were playing basketball?

Mr. Kaufmann: Yes, I would say the first time was about 3 or 4 years ago. I believe one of the neighbor's, Mrs. Brodsky complained that there was too much noise coming out of the Gym.

Mr. Herrmann: What was the response, if any, of the Synagogue?

Mr. Kaufmann: I personally met and corresponded with Mr. & Mrs. Brodsky and later her Attorney. We attempted to figure out what the problems were and what possible solutions there were. We did not have a meeting of the minds at that time and then for sometime I did not hear anything from anyone probably for a couple of years where we did not have any formal complaints at all.

Mr. Herrmann: Were there subsequent complaints?

Mr. Kaufmann: Yes, the most recent round of complaints came in the late spring of this year.

There were additional neighbor's that made complaints not just to the Center but to the Town Council and to the Borough Manager.

Mr. Herrmann: Was any summons ever issued to the F.L.J.C. in connection with any basketball?

Mr. Kaufmann: No, we have never been cited for a violation of any ordinance at all.

Mr. Herrmann: To your knowledge, was there ever an investigation with respect to the noise levels by the borough of Fair Lawn?

Mr. Kaufmann: Yes. I can tell you the most recent one was approximately a month ago, the Borough Manager had a official from the borough of Fair Lawn spend an entire day outside of our building measuring the decibel levels and a report which came to the Borough Council, which I think was subsequent to that, at no time were there any violations of any ordinance and that we were well within the permitted limits.

Mr. Levy: Do you have any documentation on that? Is this based on a discussion you had?

Mr. Kaufmann: The basis for my statement is, I was told that by Mr. Tom Messler and Mr. Messler also reported that in public to the Town Council. I don't have the date, but I'm sure my council would be happy to provide that to you. I have a tape of that meeting and the minutes and I'm sure that was Mr. Messler's testimony. We were never given the actual raw data, but Mr. Messler informed me of the results.

Mr. Levy: So this is on record at the Council Meeting?

Mr. Kaufmann: Yes.

Mr. Herrmann: Has there been any attempt to have a formal mediation with the neighbors who have the formal complaints?

Mr. Kaufmann: Yes, since the spring of this year, there have been meeting with neighbors and members of the F.L.J.C. We have met with them both without Council and with Council, the Mayor and Mr. Messler and the Borough Attorney participated in one of these sessions, all that was prior to the Town Council Meeting which I believe was October 9, 2007. Mr. Messler held one face-to-face meeting with neighbors and representatives of the Center and has also held telephone conversations in an attempt to mediate this unfortunate disagreement.

Mr. Herrmann: Can you tell us the neighborhood as a whole, what the reaction has been to the International Basketball League?

Mr. Kaufmann: The reaction has been either no reaction or favorable. Certainly there have been a number of 5 or so neighbors who have been consistent in their comments, but all the other neighbors, we haven't heard complaints and I know that other members of the general community, they are glad the program is there. Without going into details of what the proposal was that was offered by the F.L.J.C., I was informed by Mr. Messler that his office undertook a survey of 15 households that were continuous to the Fair Lawn Center's Gym, their comments regarding the compromise that was proposed. He informed me that 5 of the household rejected it.

Mr. Levy: I just asked my council what relevance is that? He stated to me it has none. This is all going over something that you tried to work out with neighbors but as far as a Zoning and Planning issue, it has no bearing on this Board.

Mr. Herrmann: Are you aware of the impact of the community as a whole if having this organization cease somehow?

Mr. Kaufmann: The immediate impact on the neighborhood, I believe is, and I don't mean to be cute here, Mr. Chairman, but the reason why the impact on the immediate community is not significant has to do with.....

Mr. Lieberman: Objection. I object to that. I don't think there is a foundation. This is a fact witness that is here to discuss his institutions lease and the institutions involvement with somebody. He is not here as an expert. I don't think there is any foundation for him to provide effect or impact testimony.

Mr. Soukas: Mr. Herrmann, can you rephrase the question?

Mr. Charipper: Excuse me, Can he not make his own observation, not as an expert, but what he has observed? He is not here as an expert but he is being asked what his observations were.

Mr. Lieberman: I would respectfully submit that he can't, that's expert testimony and impact testimony.

Mr. Charipper: If he rephrases the question, do you still have a problem?

Mr. Lieberman: If it's really the same question he's asking in another way, it's not objectable.

Mr. Levy: Let's cut to the chase, the question was, do you think there is an impact on the neighborhood? His answer is no. Correct?

Mr. Kaufmann: Based on what I am aware of, I believe the impact on the neighborhood, in terms of negativity, negligible and I believe that as far as impact on the community as a whole that it is positive and I would be pleased to tell the Board the factual reasons as to my own personal knowledge as to why I would make that statement.

Mr. Charipper: Respectfully, you have indicated that the Center serves Educational and Religious purposes and you talked about the Jewish religion and the outreach purpose it served and based on the line of questioning from Council, would you say that the basketball helps serve the Religious and Educational purposes of the Jewish Center?

Mr. Kaufmann: Yes

Mr. Charipper: How?

Mr. Kaufmann: It also allows our members to come into contact with each other, which may not sound like outreach, but more in-reach, if I may use that term because it keeps the members involved who we may not otherwise see in a activity in Fair Lawn. It is also an outreach to our community as well because it gives exposure that our members may not otherwise have to different people and it gives the community at large an opportunity to be in our building to interact with us and to show respect to our building in a way that they otherwise might not have.

Some people that come to use our building in this activity might never have that kind of contact with a Jew, may never walk into a Synagogue and say, oh yes, there are some things that go on here that I should respect.

Mr. Charipper: Doesn't each Jewish Center or Temple have its own different Educational and Religious purposes, even though the Jewish religion considered Orthodox reformed and within those different branches, each temple is different. Would you say that each temple is different in terms of what is considered important in Religious and Educational purposes or is it somewhat a uniform Religious and Educational purpose for every Jewish Temple?

Mr. Kaufmann: I cannot speak for other religions, but I think that there is no uniform within the Jewish Religion on that particular issue and it is certain that each Synagogue and Temple is different and unique in its own way.

Mr. Charipper: Can anyone outside that Temple come in to our Temple and say your religious purpose is incorrect. Can a layman or an outsider come in and say that?

Mr. Kaufmann: I certainly don't think so, no. If I understand your question correctly, can a non-member come in to our Temple and say, you are practicing or pursuing your practice of Judaism in the wrong way, no.

Mr. Charipper: Can a Government Official? Can a Lawyer, Can a Governmental Agency or anyone from the general public come in and say: You're wrong, this is not an Educational or Religious purpose and say it with certainty.

Mr. Kaufmann: Factually, I believe that the answer to that is no. I understand that there are some legal nuances to the ability of the Government to comment on that but I do believe that the answer to that, legally would be no.

Mr. Charipper: So each Temple can practice their own freedom of Religion. Practice and determine what their own Education or Religious purpose is and then take action, whether it be in the Temple, or the Gym, inviting basketball leagues or doing whatever, picnics, etc. if that would serve the Religious or Educational purposes. Would you say that?

Mr. Kaufmann: Yes, I think that is a constitutional protected right, is that the Government should not interfere with free exercise of religion.

Mr. Charipper: Isn't that what we are talking about here?

Mr. Kaufmann: I believe to a certain extent that is true. I believe that this Cease & Dismiss order has the impact of saying to the F.L.J.C. 'your use of basketball for Outreach is not part of your Religious mission.' I believe that it is not only factually correct, but I believe it is constitutionally incorrect.

Mr. Levy: I have a question. Having a basketball league is important to the teachings of Judaism or the reaching out to others teaching Judaism?

Mr. Kaufmann: Yes, having basketball is reaching out to the community, and that reaching out to the community is certainly part of what Judaism has always been about. If you go back to ancient Times, we have been instructed to be part of a community. Not to be apart or separate.

Mr. Levy: You are not suggesting that this is a primary reason why this basketball league is using your facility.

Mr. Kaufmann: Is it one of the reasons, yes. Is one of the reasons, to produce income for us?

Absolutely, I don't hesitate at all to say that it was one of the reasons why there was a basketball League before. We ran such a program at the F.L.J.C. and we charged for it and we took an income for that. Not as much as we are taking now, but it is a legitimate way to assist to pay our bills.

Mr. Herrmann: Are you aware of any other Houses of Worship within the borough of Fair Lawn that rent out their facilities?

Mr. Kaufmann: My understanding is that there are other institutions in Fair Lawn and that they have gyms and they have athletics and they rent them out. They have auditoriums and they rent them out for theater groups and they receive money for that.

Mr. Herrmann: Thank you. I have no further questions.

Mr. Levy: You mention about the impact on the community, are you aware of the police reports That occurred from April to October?

Mr. Kaufmann: I am aware that from time to time, the neighbors have called the police as a result of responding to that, they have come out. To my knowledge none of those reports have resulted in summonses.

Mr. Levy: But they did cause disturbances in the surrounding communities?

Mr. Kaufmann: We might have to disagree on our definition of disturbance. Did the neighbors

Who called feel in good faith that there was a disturbance? I certainly respect the neighbors from the F.L.J.C. They are honest and decent people so I don't disparage their feelings or their actions, but if the question to me is "Does what is going on at the center cause a disturbance in the neighborhood, I would have to say no. From time to time has there been something in the past 5 years that may have occurred there.....

Mr. Levy: Let me cut you off there. Has there been an impact on the neighborhood by those disturbances from the basketball league?

Mr. Kaufmann: I think there has been both positive and negative as the result of the basketball league. There has been some impact, which has been viewed by some of the neighbors as negative and there has been a great deal viewed as positive not only to the immediate neighborhood but the entire neighborhood.

Mr. Levy: Can you describe what the traffic is, in terms of parking, what vehicles are brought in and out.

Mr. Kaufmann: Yes. Physically there is a parking lot and the street that is used to enter into the center if off of Walsh Place. There are two lanes of egress. There are also other methods of egress from the parking lot from other areas. There are three exits. I understand that people are going down one-way streets and that was one of the complaints that the police were called for.

The cars that come to the International youth basketball leagues are really dependent on the size of the attendance. We no longer have adult leagues, we have cut down on that, so that the number of those vehicles have decreased. The type of vehicles that come are the type that would come to any event.

Mr. Levy: Are there buses?

Mr. Kaufmann: To my knowledge, there are no buses. Do buses sometimes come to the F.L.J.C.

Yes. I know I have heard from the neighbors that from time to time there have been buses that have been present that have been on the premises and also Walsh place, but to my knowledge those buses are not used to transport people to and from the basketball games. Maybe it is, but I have no personal knowledge of it.

Mr. Levy: There are cars. In your estimation what is the amount of cars that are there?

Mr. Kaufmann: That can vary depending on the various activities. I have been there when there have been anywhere from a dozen to two dozen and maybe even three dozen. There is ample room within the parking area. I don't recall a time where there has been a overflow of parking when there has been a basketball game.

Mr. Levy: You had mentioned there are other activities that occur and other organizations that use the facility in your experience do they use buses for the activities?

Mr. Kaufmann: Yes. To my knowledge none have been used specifically for the basketball league. I know for example, and quite frankly it is not supposed to happen on Saturday, but if there is a Bar Mitzvah, the party is someplace afterwards a family has indeed rented a bus to transport their guests to the place where the party is. I know that has occurred. Also, when you have speakers, for example they have mini-buses. Depending on the activities, there can be more or less vehicles.

Mr. Levy: Are there any other disturbances that you are aware of other than vehicles or traffic noise?

Mr. Kaufmann: If you mean excessive noise, the answer is no. Is there noise created? Of course if there is a wedding with a band, certainly. If there is a wedding with three hundred people, there are a lot of people that will be in the parking lot after the event takes place.

Mr. Levy: What is the amount or the average amount of events that occur other than basketball?

Mr. Kaufmann: There is always a lot of activities going on every day, if not an Educational lecture it's a meeting, a youth activities, study groups. There is a lot going on in the building.

Mr. Levy: I have no further questions. Does anyone else have any questions? Before we enter into this, it is getting close to 11:00 p.m. We normally stop around 10:30p.m.

Council, I am not going to have another witness start, but there still are a lot of questions.

I will allow the objective's attorney to ask questions.

Ms. Spindel: You talked about outreach in bringing people into the temple to play with Jewish members. With the league there now, are there members from the F.L.J.C. and also those who are not Jewish?

Mr. Kaufmann: There are many members of the basketball league who are not members of the F.L.J.C. and who are not Jewish.

Ms. Spindel: All right. You have both outsiders and insiders. Are the members of the Temple presently participating paying to be members of the league?

Mr. Kaufmann: The members of the Synagogue who participate also pay. Yes.

Ms. Spindel: How many nights, or what are the hours of night that these leagues are playing?

Mr. Kaufmann: The leagues are primarily nights and during the day on Sunday and the building is usually emptied by 10:00pm. They start as early as 5 or 6:00pm and on Sunday, it can go from anywhere around noon till 10:00p.m.

Ms. Spindel: Typically, how many people show up on average at a game?

Mr. Kaufmann: I don't have specific registration, so I can tell you from poking my head into the gym it can range from 7 to 12 members each on the leagues and depending on the attendance, maybe a hundred or so spectators.

Mr. Charipper: It is getting late, and it will take a little bit of time to finish. Perhaps, Chairman, do you think we should take this up again at another scheduled meeting?

General consent of the Board was to carry meeting

Mr. Levy: Counselor, you agree to an extension of time.

Mr. Herrmann: Yes.

Motion to carry consensus of the Board. Yes

APPLICATION CARRIED TO JANUARY 14, 2008

Memorialized Resolutions:

1. Application #2007-81, Krishnamachari Devarajan, 12 Smith Ave, Block 6902, lot 2, Zone R-1-3, -Addition
2. Application #2007-82, James and Trudy Lambert, 4-16 Summit Avenue, Block 4404, Lot 20, Zone R-1-3 -Addition
- 3 Application #2007-83, George and Eileen Viелlette, 0-34 Walton Road, Block 1107, Lot 2, Zone R-1-3- Addition
4. Application #2007-84, Alexandra Hofman, 20 Hunter Place, Block 2807, Lot 23, Zone R-1-2, -Addition
5. Application #2007-85, Scott Osback, 23-13 Cambridge Road, Block 3221.01, Lot 11, Zone R-1-3, - Driveway
6. Application # 2007-86, Eddie and Genna Tolentino, 24-02 Raphael Street, Block 3320, Lot 43, Zone R-1-3, - Addition
7. Application #2007-87, Simon Zarour, 6 Harris Place, Block 2708, Lot 16, Zone R-1-2, Lot frontage

8. Application #2007-88, Andrei Basov, 14-19 Craig Road, Block 3703, Lot 18, Zone R-1-2
Patio/Fence
9. Application #2007-89, Haim Benaim, 11-05 Malcolm Terrace, Block 2526, Lot 12, Zone R-1-2, - Driveway
10. Application #2007-90, Damaso and Teresita Aclan, 15-06 Parmelee Ave, Block 5708, Lot 16, Zone R-1-3, -Addition

Mr. Charipper makes 1st. motion to approve, 2nd by Mr. Diner

VOTE: All Present – AYE.

Vouchers & Bills:

Doug Charipper made 1st motion to approve, 2nd motion, Ms. Spindel

VOTE: All Present – AYE.

Calendar Schedule for 2008

Doug Charipper makes 1st motion to approve, 2nd motion, Todd Newman

VOTE: All Eligible – AYE

Adjourn

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

TIME: 11:10 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk