

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Of March 16, 2009**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on March 16, 2009.

Chairman Todd Newman called the regular meeting to order at 7:10 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

Roll Call: Present: Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Salerno, Mr. Blecher
Mr. Meer & Mr. Newman

Absent: Mr. Diner, Mr. Frankel, Mr. Sacchinelli, Mr. King

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

Residential Old Business:

1. Application#2009-092, Joseph Costa,
2-01 8th Street, Block 3308, Lot 23 & 24, Zone R-1-3
Existing lot is 5000sf where 6500sf is required. Lot frontage of 50' where 65' is required. Proposed addition would increase the building coverage from 21.76% to 25.06% where 25% is permitted. Would maintain the existing front yard setbacks of 24.48' and 11.89' where 25' is required. Would maintain the existing side yard setback of 7.86' where 8' is required as per Section 125-12 Schedule of area yard and building requirements. FAR of 45.09% where 40% is permitted. Requires a D4 FAR variance as per Section 125-57.D.(d)

Mr. Ronald Groseibl steps forward. Attorney for Mr. Costa.

Mr. Newman asks Mr. Groseibl if these are the same submitted plans from the last previous month?

Mr. Groseibl responds yes and there has been no changes made. I do have additional pictures that Mr. Costa took and will refer to during the hearing.

Mr. Groseibl calls Mr. Costa forward.

New Photographs are marked into evidence. A-1 (6 photos)

Mr. Newman swears in Mr. Costa.

Mr. Groseibl starts his cross-examination with Mr. Costa.

Mr. Groseibl asks what type of property is it and can he elaborate?

Mr. Costa explains it is a 50x100 lot, a small house and he would like to put a second floor on it. Refers to the pictures of the house and states it is a 3 room house, in horrible shape and he is trying to make it better and improve it. I would like to put a four bedroom addition upstairs, I have two kids, and my wife and I would like to have a guest room also.

Mr. Groseibl continues his questioning....

Mr. Charipper: If I may interrupt, we already are familiar with these plans and what we asked him to do the last time he was here was to ask the architect if he could bring it under the FAR. Has he done that?

Mr. Groseibl: I was under the impression from him, what the Board wanted was the Architect present and additional photos that might be relevant to the application.

Mr. Newman: I don't recall asking for revised plans, I think we were asking for the opportunity to discuss the proposed addition with the architect and the applicant to see what we could do to work with the overage on the FAR.

Mr. Groseibl discusses the photos with Mr. Costa and asks him to explain them to the Board.

Mr. Costa states that he just wants the Board to see that the house is not going to be outside of character with what is already in the neighborhood.

Surrounding properties are discussed....

House condition is discussed. Mr. Costa would like to make the house stucco on the outside and make it look a lot better than what it is now.

Mr. Groseibl ends his questioning.

Mr. Newman questions Mr. Costa on the FAR., and explains to Mr. Costa why the Borough has this requirement....

Mr. Newman asks Mr. Costa if he is an architect or an Engineer? You are not testifying as an expert witness and have no idea the measurements are on any kind of these structures in the surrounding areas, it is only your visual that you are relying on?

Mr. Costa: Yes.

Mr. Newman: Are you willing to modify these plans in any way with your architect?

Mr. Groseibl: We are willing to work with the Board.

Mr. Newman swears in Mr. Raymond Boos, Architect licensed in the State of New Jersey & New York, in practice over 35 years.

Mr. Newman accepts Mr. Boos as an expert witness.

Mr. Groseibl begins his questioning of Mr. Boos and asks him to describe the proposed addition.

Mr. Boos: We are expanding the existing building by six feet and adding a second floor. This structure is extremely small for a one family house. The first floor consists of 12 inch masonry walls and we will maintain 3 of those. The expansion on the garage side will be demolished. When finished with the first floor walls, they will be over 16 inches thick. The space is quite limited. I am well aware of the FAR. I explained to Mr. Costa that we would be over around 5% over on the FAR. It would give him a four bedroom house, nothing that out of what is elsewhere. The building envelope itself is only 17ft. being on a corner lot. Under the ordinance, corner lots create a little bit of difficulty.

Mr. Boos continues.....

He doesn't feel this house would be out of line with the other houses in the neighborhood.

Mr. Newman asks Mr. Boos if there are any other alternatives.

Mr. Boos states they could take the bedroom off the garage.

Mr. Newman asks about the bulk of the house and the measurements he used to calculate the FAR. Were they taken from the outside of the building or the inside?

Mr. Boos answers the gross area of the building. The 5% that is over is in part of the gross area of the building, excluding the garage.

Mr. Newman & Mr. Boos continue.....

Mr. Newman opens up the questions to the Board.

Ms. Spindel questions Mr. Boos about the driveway.....and Plan A3 shows an elevation of the façade of the house and it shows that cinder block would be showing?

Mr. Boos: We did an impression of a Spanish Style house with a stone base and then stucco on the top portion.

Mr. Karas questions Mr. Boos on the plans.....

Mr. Karas questions Mr. Costa on the masonry wall that is on the survey?

Mr. Karas states that he is concerned that if there is an approval of this application, in any form whatsoever that it should not be construed as giving legality to the intrusion on the masonry wall into the right of way.

Mr. Newman confers with the Board Attorney, Mr. Soukas..

Mr. Soukas: Yes, if it is approved, it is not to be construed as granting any approval as to the encroachment of that wall.

Mr. Costa states he would like to re-grade the property so that it slopes down and eliminate that wall.

Mr. Newman: I think if you are eliminating it, then it wouldn't be an issue but we can still include it in the Resolution anyway.

Discussion continues.....

Mr. Karas: Not only the wall but also the land behind it because I am sure that if a title policy were issued on this property that that title property contains an exemption to that retaining wall encroaching on the right of way.

Mr. Newman agrees.

Mr. Newman opens up the applicant and Mr. Boos to residents within 200ft.

Mr. Newman swears in Kathleen Galler, 28-15 Rosalie Street.

Ms. Galler explains that Mr. Costa wants to make this huge house on the corner, which he is saying there is parking but he is changing the front entrance and facing Rosalie Street and there are restrictions. There is only one side of the street parking. It is right by the school and the firehouse. He is saying that he is 6ft. away from my house and I hope that is true.

Ms. Galler continues with all the detriments in building this home. The FAR is over and she is very concerned with the size of the house.

Mr. Boos steps forward and answers her concerns with the driveway and parking issues.

Discussion continues.....

Mr. Newman asks if there are any other residents within 200ft. Seeing none.
Mr. Newman closes this portion.

Mr. Newman opens the applicant up to the general public. Seeing none.
Mr. Newman closes this portion.

Mr. Newman entertains a motion.

(5 affirmative votes are needed in a D-variance)

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

VOTE: Mr. Salerno, Mr. Blecker, Mr. Meer & Mr. Newman, **YES**
Mr. Karas, Ms. Spindel, Mr. Charipper, **NO.**
4-Affirm 3-No

Application is denied.

Residential New Business:

1. Application #2009-094, Wayne & Marilyn Bojanowski
4-34 Hartley Place, Block 3409, Lot 10, Zone R-1-3
Lot frontage of 54' where 65' is required. Proposed addition would increase the impervious coverage from 30% to 39.4% where 35% is permitted. Would increase the building coverage from 16% to 25.2% where 25% is permitted. Would maintain the existing side yard setback of 7.43' where 8' is required as per Section 125-12 Schedule of area yard and building requirements.

Ms. Spindel is recused from the application.

Mr. Newman swears in Marilyn & Wayne Bojanowski.

Fees have been paid and there is proof of service.

Mr. Newman: Can you please let us know what it is that you plan to do?

Ms. Bojanowski: We have a Cape-Cod style house and now our family will be increasing to a seventh grandchild. We have family gatherings and there is no place to put anyone. The kitchen is small and we want to put a 20ft. addition in the back for a Family Room and a Dining Area. Right now there is a deck there. It is a 16x20 deck which would come down with the addition.

Mr. Newman: You have a small lot frontage, correct?

Ms. Bojanowski: Yes, 54ft. where 65ft. is required. Lot size is 54x130, it's a deep lot.

Mr. Newman notes that the addition is going to be in the back and no one would probably notice it. They are barely over on building coverage by .2% but the impervious coverage is 4.4% over what is permitted.

The Driveway & Pool are discussed.....and how much that accounts for the impervious coverage.

Mr. Newman: Any comments or questions from Board Members.

Mr. Newman: Does the existing house fit with the existing neighborhood?

Mr. Bojanowski replies yes.

Mr. Newman opens the applicant to residents within 200ft. Seeing no one.
Mr. Newman closes this portion.

Mr. Newman opens the applicant up to the general public. Seeing no one.
Mr. Newman closes this portion.

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

VOTE: Mr. Karas, Mr. Charipper, Mr. Blecher, Mr. Salerno, Mr. Meer, & Mr. Newman
YES.

Application Approved.

2. Application#2009-095, Timothy A. Beyer
33-15 Norwood Drive, Block 2522, Lot 1, Zone R-1-2
Proposed 4' fence in front yard setback where 3' is permitted. Front yard setback of 0' where 30' is required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in Mr. Timothy Beyer.

Fees have been paid and there is proof of service.

Mr. Newman: What brings you here tonight, Mr. Beyer?

Mr. Beyer: I would like a 4' fence where a 3' ft. fence is permitted.

Mr. Newman: Looking at this survey here, this fence would be in line with the perimeter of your rear yard, correct?

Mr. Beyer: Yes.

Type of fence is discussed.....

Mr. Beyer: Black chain link fence.

Mr. Newman: Why do you want to go to 4ft?

Mr. Beyer: I have a two year old daughter and we would like a dog at some point.

Pictures are discussed.....side yards/back yard/rear corner/

Mr. Newman asks Mr. Beyer if he wants this fence right up to the sidewalk. and suggests that he pull back a minimum of 2ft. off the sidewalk. He also suggests that any approval tonight reflect that.

Mr. Beyer agrees.

Mr. Newman: Before we proceed then, we can say that you are willing to amend the application to a minimum of two feet off the sidewalk?

Mr. Beyer agrees.....

Mr. Newman: Any questions from the members of the Board?

Ms. Spindel: Are we going to put in the resolution what type of fence and that it will be black vinyl coating?

Mr. Soukas: If he agreed to it, the applicant seems to be working with the Board....

Mr. Newman: I will explain, Mr. Beyer, you testified that there were no line of sight issues and what Ms. Spindel is saying is can we hold you to your fence style and I think there is validity to that because you are on a corner lot and a solid fence could change the issue with line of sight potentially. Would it be o.k. to add to the resolution that it is going to be chain link fence?

Mr. Beyer: Open chain link, yes.

Mr. Newman: Any comments or questions from any other Board Members? Seeing none.
Mr. Newman opens up the applicant to residents within 200ft. Seeing none.

Mr. Newman closes this portion.

Mr. Newman opens up the applicant to the general public. Seeing none.

Mr. Newman closes this portion.

Mr. Salerno makes 1st. motion to approve the application.

Ms. Spindel seconds the motion.

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

Application Approved.

3. Application#2009-096, Robert & Diana Vonsee,
0-118 Blue Hill Avenue, Block 1209, Lot 13, Zone R-1-3
Proposed removal of existing attached garage and building a new detached garage
would increase building coverage from 23.85% to 28.63% where 25% is
permitted. Would increase the impervious coverage from 39.42% to 40.40%
where 35% is permitted. New garage would have a 25' front yard setback where
35ft. is required as per Section 125-12 Schedule of area yard and building
requirement.

Mr. Newman swears in Mr. Robert Vonsee & Diana Vonsee.

Fees have been paid and there is proof of service.

Mr. Newman: What brings you here this evening?

Mr. Vonsee: I proposed to build a detached garage on my property.

Mr. Newman: You require a variance because it is over the impervious and building
coverage. Building coverage as proposed would be 28.63% where 25% is
permitted and impervious would increase from 39.42% to 40.40% and also
you have a setback issue. Why are you doing this?

Mr. Vonsee: I have a classic car that I would like to store in my own home and as it
stands now I couldn't fit it in the existing garage that I have now.

Mr. Newman: I understand why you want the bigger garage but the hardship in order to
grant a variance needs to rest with the property. Is the property undersized?
too narrow, odd shaped? Is there an easement on the property? No issues
like that on the property?

Mr. Vonsee: Not that I am aware of.

Discussion continues.....Mr. Vonsee explains he would like to remove the existing garage off the house.

Mr. Salerno points out that this is an undersized lot.

Mr. Newman explains to Mr. Vonsee that he indeed has an undersized lot with 5300sf where 6500sf is required. The impervious coverage you are seeking is the de minimus increase. Not even a percentage point.

Mr. Newman questions Mr. Vonsee as to what he is doing with the garage that is currently there now? Is he re facing that part of the house?

Mr. Vonsee explains yes, foundation is being removed and I am trying to save whatever brick would be coming down off the garage area, put siding to match the house and make it look all in proportion. I will be removing the existing driveway and turning that into lawn and putting the driveway adjoining to the new detached garage.

Mr. Newman asks about surrounding areas, if others have detached garages? Is it keeping in character of the neighborhood?

Mr. Vonsee states yes.

Mr. Karas: You plan on putting a walkway where on the plan is where your present garage is? Would it not be more feasible to build a new garage onto the house at that particular point in keeping with the neighborhood? Why do you have to add a walkway which adds to impervious coverage?

Mr. Vonsee states he does not need another walkway. It was just a suggestion to have a little walkway from the garage to the back of the house.

Mr. Karas asks Mr. Vonsee why he does not want to construct his new garage attached to the house.

Mr. Vonsee explains he cannot make it as deep as he would like to go.

Mr. Karas discusses this with Mr. Vonsee.

Mr. Karas asks Mr. Vonsee if he would reconsider the walkway and consider not installing it.

Mr. Vonsee agrees to the suggestion but the Board Members don't see the 1% increase as an issue.

Mr. Newman: The new garage would have a 25ft.front yard setback but that is currently what the setback is on the front of the house, is that not correct.

Front yard setback is discussed and what the ordinance calls for on a detached garage.

Height is questioned on the garage.

Mr. Vonsee replies 11'6". It is on the prints that we submitted.

Mr. Newman opens the applicant up to residents within 200ft. Seeing no one.
Mr. Newman closes this portion.

Mr. Newman opens the applicant up to the general public. Seeing no one.
Mr. Newman closes this portion.

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

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

Application Approved.

4. Application #2009-097, Perry & Sue Lake,
18-01 Ellis Avenue, Block 4506, Lot 11, Zone R-1-3
Existing lot is 5000sf where 6500sf is required. Lot frontage of 50' where 65' is required. Proposed foyer and new front landing will reduce the front yard setback from 25.3' to 20.08' where 25' if required as per Section 125-12 Schedule of area yard and building requirements.

Mr. Newman swears in Mr. Perry Lake & Sue Lake

Fees have been paid and there is proof of service.

Mr. Newman: Can you tell us what brings you here tonight?

Mr. Lake: We have a two story cape. Right now we have two steps leading up to a landing. We would like to put a closed entryway/mudroom on top of the landing. It would increase the room into the house. It would be a space to take our shoes and jackets off before entering the house. It would fit into the rest of the neighborhood.

Mr. Newman asks if anyone on the street or the surrounding neighborhood have front foyers.

Mr. Lake replies yes. There are pictures depicting these foyers.

Mr. Newman reviews the pictures with the Board.

Mr. Newman: This would be over the existing front porch?

Mr. Lake explains that they would replace the front stoop because the footing didn't go down far enough into the frost line so we would have to replace it with the same stoop but....

Mr. Newman corrects his questioning and states that what he meant was the footprint of the front porch. He was not enlarging it in any way?

Mr. Lake states that he is not increasing the size, but thinks he would have to come out with the steps a little further. 1 to 2 steps...

Mr. Newman asks if this brings him closer to the street where the existing front porch is now.

Mr. Lake explains that the new front landing will reduce the front yard setback from 25.3 to 20.08' ...so it would be reducing the setback. I think the house will fit in more with the look of the other houses in the neighborhood. It will not change the look of the house much at all and will improve the look overall.

Discussion continues.....

Mr. Newman opens the applicant to residents within 200ft. Seeing no one.
Mr. Newman closes this portion.

Mr. Newman opens the applicant up to the general public. Seeing no one.
Mr. Newman closes this portion.

Mr. Salerno makes 1st. motion to approve the application.
Ms. Spindel seconds the motion.

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

Application Approved.

Recess: 5 minutes

Roll Call:

Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Blecker, Mr. Salerno, Mr. Meer
& Mr. Newman: Present

Commercial New Business:

1. Application #2009-098, Peter Wong/Ice Cream Shoppe
0-115 30th Street, Block 2207, Lot 71, Zone OBS-2
Proposed Ice Cream Shoppe-Retail sales is not permitted in an OBS-2 zone
D-1 variance required as per Section 125-27-125-57.D.(d)

Mr. Ronald P. Modello, on behalf of Peter Wong.

Fees have been paid and there is proof of service.

Mr. Modello: I've included a 1 page brief summary as to what this application is. The applicant, Mr. Wong would like to open up a Homemade Ice Cream store in the OBS 2 zone. This zone does not permit retail sales; however this particular area where the proposed ice cream store would be has a CVS, a post office which adjoins the store, a nail salon, a restaurant and an athletic clothing store. We wouldn't be here if this location was across the street. I would like to introduce Mr. Wong, who is a Fair Lawn resident; he has children in the School System.....

Mr. Modello continues his explanation of this site. The majority of the space is to be used for the production of high quality homemade Ice Cream to be sold to restaurants and the remainder of the premises to be used for retail. Including the folks that are shopping at the CVS, the Post Office, parents picking up the children from the school across the street, etc.....the Community area. It was previously a nail salon, and has been vacant for quite some time. Although Mr. Wong has many other businesses in other towns, he lives here and would like to have this business in town.

Mr. Newman asks Mr. Modello if there were no proposed retail front here and this was all the manufacturing, would you be here tonight.

Mr. Modello: No.

Mr. Newman swears in Mr. Peter Wong.

Mr. Modello begins his questioning of Mr. Wong asking Mr. Wong to explain to the Board the hours of operations and the number of employees he plans to have.

Mr. Wong wants two full time and 1 part time. Hours would be 12-8pm and operations would be 1 delivery truck once a week...

Mr. Newman questions parking and if there is adequate parking on site?

Mr. Modello states there is no adequate parking at the site. There are several area where they could park.....30th street, the CVS. In addition the Valley National Bank building, Where there is a parking lot directly behind it.

Mr. Newman continues discussing the parking and if these Commercial parking lots such as the CVS & Valley National Bank are for patrons only....

Mr. Blecker: What are the parking regulations currently along both sides of 30th St.?

Mr. Mondello answers as best as he could and then brings up the owner of the property who may be able to answer more in detail.

Mr. Newman swears in Craig Cabekian, 7 Charles Court, Upper Saddle River, N.J. Partner in the property.

Mr. Cabekian explains to the Board that the Southside of Broadway does not have the parking problems that the North end side of Broadway has, there is street parking.... parking on one side of 30ththe side of CVS.

Mr. Cabekian continues with what the area has and what surrounds it.....

The building itself is one story high with retail stores.....current businesses that are all in the OBS-2 Zone.

Mr. Modello asks Mr. Don Smart to come forward

Mr. Newman swears in Mr. Don Smart of the Broadway Improvement Corporation.

Mr. Smart: The Broadway Improvement Corporation just delivered to the Mayor and Council a very precise review & proposal for a new Master plan for Broadway and in that we called for an elimination of this zone, because of the zoning regulations that were made 30years ago.....We are here in support of this application.

Ms. Spindel: Hours of operation will be 12-8? What days?

Mr. Wong: Tues thru Sunday.

Mr. Modello replies: Those are the hours with the understanding that they could change with the Summer season.

Ms. Spindel questions Mr. Wong if he would have a sit down place and what would happen if it becomes a hangout?

Mr. Wong does not have a place for people to sit and the people would not stay for long.

Ms. Spindel shows concern for the garbage that teenagers do drop.

Garbage Cans are discussed and Mr. Wong does intend on having Garbage Bins on the outside of the store and has all intention to have sidewalks power washed during the Summer months.

Mr. Newman asks Mr. Smart up and wants confirmation that Broadway Improvement will see to it that a Garbage Bin will be placed in the front of the store and will work with the applicant to keep the area clean.

Mr. Newman opens the applicant up to residents within 200ft. Seeing no one.
Mr. Newman closes this portion.

Mr. Newman opens up the applicant to the General Public. Seeing no one.
Mr. Newman closes this portion.

Mr. Modello summarizes that in his opinion it promotes the general welfare, this application provides sufficient space and appropriate location.....I do not see any negatives.

We need a D-variance, a parking variance and a waiver from Section 125-41B 9 which is the section for awnings. Awnings are supposed to be retractable and those mechanisms are very expensive. This awning will not be retractable.

Mr. Newman: Are the adjacent awnings as they exist retractable?

Mr. Modello replies to his knowledge, no.

Mr. Karas questions how far from the sidewalk of the building do they extend?

Mr. Modello replies 2ft.

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

Ms. Peck reminds the Board of a Food Handler's license that is needed.

Mr. Salerno amends the approval to include a Use variance with Mr. Modello's acknowledgement and approval.

Ms. Spindel seconds the motion.

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

Application Approved.

2. Application#2009-099, Retro Fitness/Jim Della Valle
18-01 Pollitt Drive, Block 4802, Lot 2, Zone I-1
Proposed Gym in I-1 Industrial zone is not a permitted use. Requires a Use Variance and Parking Section 125-28, 125-57D(1)(d) 125-48.A.(2)

Mr. Stuart Liebman from the Firm, Wells, Jaworski & Liebman on behalf of the applicant Grande Pointe Fitness, LLC.

Fees have been paid and there is proof of service

Mr. Liebman opens the meeting with his explanation of what the application is about this evening. It is a proposed Health & Fitness Center known as Retro Fitness. The use would occupy a portion of the building which is 21,582 net square feet of floor area in a building that is about 138,000 net square feet of floor area. The application calls for a Use variance and a parking variance where 482 spaces are required for the use that is existing and proposed and 376 parking spaces are proposed.

Mr. Liebman explains they were before the Board in 2007 for the same property seeking A Use variance which was approved by Resolution on August 20, 2007 for a Laser Eye Center, a Medical Use which was not one that was permitted in the I-1 zone which also called for a parking variance.....that use was approved.

Mr. Liebman mentions two other existing non conformities that are called out on with reports, one being a front yard setback that exists at 49.17ft. where 65ft. is required and impervious coverage that is 73.5' where a maximum of 60% is permitted. Both are approved variances before this Board

No site changes at this site are to be made except a handicap ramp.

The Board is aware of the Borough updating its Master Plan, adopting portions of the Economical Development Corporation's study that suggested changes to the Zoning in this area of Fair Lawn. The change is to include this type of use, a Health & Fitness Center.....

It also recommends shared parking & multiple uses in one building such as what you will see tonight.

Mr. Liebman states this application is consistent with the intent & purposes of the Zoning Ordinance and the Master Plan. It is a good use for the property and very compatible with the area.

Mr. Liebman calls his first witness, Mr. Jim Della Valle, owner/operator of the fitness center.

Mr. Newman swears in Mr. Jim Della Valle, 234 Martha Lane, Blakely, Pennsylvania.

Mr. Della Valle explains he is the Director of Franchise Development for Retro Fitness. He has two and Fair Lawn is one of the territories that he has. Retro Fitness opened its first unit in 2004 and started franchising in 2006. They have 42, 30 of them in N.J. They operate in many states.

Mr. Della Valle continues with how he became attracted to this spot. Demographically it is a perfect spot. Hours of operation: Monday thru Friday, 5am until 11pm. Saturday, 7am-7pm, Sunday, 7am-5pm. We would not have more than 6 employees during peak hours.

Peak hours are discussed.....

No group classes or aerobics are done. Our motto is more fitness, less money.

Mr. Newman questions the Martial Arts Class?

Mr. Della Valle: We are considering putting in Martial Arts, one on one training instruction. No large classes. Our facilities are loaded with Cardio Equipment, state of the art.....a cardio theatre. When you look at our floor plan, you'll see it's a fresh idea.

Mr. Liebman speaks of the floor plan pointing out the calculations of the floor plan..

Mr. Della Valle continues explaining the site plan....men's locker's, woman's locker's 100 lockers per locker room, 3 showers, sinks.....kids rooms with child sitting 9-12. Mr. Della Valle explains this is not a Childcare Facility, only a child sitting room for members while they are there and there is a \$2.00 sitting fee.

Mr. Newman questions the Massage Room?

Mr. Liebman explains the Massage room.....in the event that this is to be provided, it does require a separate license.

Mr. Della Valle is fully aware of this and explains that all of the facilities do not have this. We do not know as of yet if we are going to go that route but if we do we will come before the Board and do whatever we need to do.

Mr. Newman recommends that if this license is not being sought at this time, we should amend the massage room on the site plan to be called another office as part of the application.

Both Mr. Liebman & Mr. Della Valle agree to this recommendation.

Mr. Della Valle adds that there is an area where shakes will be made, a energy shake, a mass builder shake, Also cooler drinks, Gatorade, water, etc....protein drinks.

Mr. Newman questions if the Shake Bar is a fresh fruit shake bar where fresh fruit would be stored?

Mr. Della Valle explains it is not a fresh fruit, it is syrup that gets put into a machine and it would be made on site. As far as perusable food, there is none.

Mr. Newman & Mr. Liebman discuss if there is a Food Handler's issue with this.

Mr. Liebman believes it does not fall into the category, but if there is and they will request a Food Handler's Permit.

Discussion is followed.....It is decided to seek the Food Handler's Permit.

Circuit training area is discussed.....all the equipment is discussed and all top of the line equipment is used.

Ms. Spindel questions Mr. Delle Valle on the employee's kitchen, since there will be full time workers....where do they eat?

Mr. Delle Valle replies there is no kitchen. It will not be allowed. The employees cannot eat near the counter or anywhere, there will be an area. No cooking in the facilities, no microwaves. With a microwave, smells are emulating around the Gym, It is a very controlled environment so we will not allow this.

Maintenance will be in 6 days a week when the Facility closes at 11:00pm. The main focus is the Locker Rooms, trash removal on a daily basis.

Mr. Delle Valle discusses the difference between his Health Club & clubs such as Parisi's & N.Y. Health Clubs....

Laundry services are discussed. No Laundry services. The deliveries will consist of the cooler drinks which are scheduled once (1x) a month with a Box Truck delivery truck and one vendor. Times are controlled.

Signage is mentioned. Mr. Delle Valle states he will do whatever the town requests.

Mr. Liebman has no other questions for Mr. Delle Valle.

Mr. Newman: Any questions from the Board?

Mr. Charipper questions Employees and how many are there?

Mr. Delle Valle says no more than six (6) during peak hours.

Mr. Charipper questions if they had an Environmental Assessment?

Mr. Liebman: That was done by the Property Owner some time ago.

Ms. Spindel questions the location of the building? Ms. Spindle mentions there is a very tight turn where some very large trucks are trying to make that turn and they are driving over the curb onto the grass. I think there needs to be some kind of sign up there, not only for this facility but in general.

Mr. Liebman mentions that he will communicate with the Property Owners the issue she Speaks of....but that is beyond what this applicant can do. Mr. Liebman suggests that Mr. Witzak, Professional Planner, speak to her concerns.

Signage location is discussed.....

Mr. Newman asks if any of our Board Professionals have questions. Seeing no one, Mr. Liebman calls upon his next witness, Mr. Chuck Witzak.

Mr. Newman swears in Mr. Charles J. Witzak, Professional Planner & Engineer licensed in the State of New Jersey and have testified previously in applications by this Board and other Boards in this State.

Mr. Newman accepts Mr. Witzak as an Expert Witness.

Mr. Liebman asks Mr. Witzak to speak of the application and the site plan before them.

Mr. Witzak begins with the first Board. (A-1)He shows an aerial map that was prepared on 3/9/09. It is a depiction of the site itself and for the purposes of the generalization for the Board, Mr. Witzak gives a brief description of locations of the site to the Board.....

Mr. Witzak continues explaining the improvements that were undertaken from a site standpoint to the outside of the building. The whole parking bay was reconstructed and there was also a portion to the north existing building that was repaired. Currently on the site right now there are a number of uses, medical, office and a hospital use.

Mr. Witzak reviews the next drawing; marked as A-2 it is noted as the first floor area plan. This was handed in with the package. Explains the different patterns represent the different areas of the building as they exist right now. The majority of this building is occupied right now which is a good thing because it allows us to have a better understanding of how it operates and you will hear from the Traffic Engineer who will be able to give you answers on how the site functions.

Discussion continues.....

Mr. Witzak explains that Retro Fitness will be located to the North/West end of the building where there is an existing two way driveway. There is a curvy driveway which was designated for cars only. It was not intended for use by large delivery vehicles.

Speaks to Ms. Spindel concerns and states that there could be changes made to the plan to correct the situation of the trucks that are using this driveway. We could add a sign there and also another sign at the Northerly most driveway designating that as truck traffic.

Ms. Spindel again speaks of her concerns with Mr. Witzak.....

Mr. Witzak gives suggestions on all the ways they can alleviate the situation with signage.

Mr. Witzak again reviews Exhibit A-2 with the Board.....pointing to all the locations on the site. Medical, Dental.....two portions of this site are not occupied as of yet, one being Retro Fitness, the second, a piece of office in the center, so to speak.

Mr. Witzak reviews with the Board the site plan, which is Exhibit A-3-site layout plan dated 3/09. There are very few site changes, the only real area that is being changed is to the North face of the building towards the rear of where the Retro Fitness space would occupy. There is an existing parallel parking space that runs along the building. That needs to be removed and replaced with a handicap ramp. In order to access that existing door from a handicap standpoint, we need to add a significant handicap ramp because of the ADA requirements. The second space, which is currently a 90degree space that is also adjacent to a proposed doorway that is necessary for code.

Discussion continues.....

One space would be lost because of these changes, so the count would be 375 parking spaces.

Lightening is discussed.....Mr. Witzak reports it is adequate and no additional lightening is needed.

Mr. Witzak states he will submit a detailed plan to be reviewed by the Board's Professionals to give the information to insure that it is constructed correctly.

Storm drainage is discussed-no changes in impervious coverage. This proposal does not impact storm drainage in any way.

Mr. Liebman has no further questions for the witness.

Mr. Newman opens up the witness to residents within 200ft. Seeing none.
Mr. Newman closes this portion.

Mr. Newman opens the witness to the general public. Seeing none.
Mr. Newman closes this portion.

Mr. Newman asks the Board Member is there are any questions for the Witness.

Mr. Charipper mentions grade issues...parking

Mr. Witzak and Mr. Charipper discuss both.

Mr. Karas questions Mr. Witzak on the number of parking spaces proposed at the entire site. How many are presently being allocated for the various operations on site?

Mr. Witzak answers 376, but the second part of the question I can tell you that the Traffic Engineer can probably answer that in more detail because he did a traffic study on site.

Mr. Newman: Any other questions from our Board Members or Professionals.
Mr. Newman swears in:

Mr. Paul Azzolina, Board Engineer reviews his report & concerns.
Mr. Mark Kataryniak , Board Traffic Engineer reviews his report & concerns.

Mr. Witzak & Mr. Liebman both will address the issues & concerns mentioned.

Mr. Newman opens the witness up to residents with 200ft. Seeing none.
Mr. Newman closes this portion.
Mr. Newman opens the witness up to the general public, Seeing none.
Mr. Newman closes this portion.

Mr. Liebman brings forth his next witness, Mr. Joseph Staigar, Traffic Engineer.

Mr. Newman swears in Mr. Joseph Staigar, Independent Traffic Engineer licensed in the State of New Jersey. He has testified before Boards prior to this within the State.

Mr. Newman certifies Mr. Staigar as an expert witness.

Mr. Liebman asks Mr. Staigar to please review his findings with the Board on the circulation of traffic at the site.

Mr. Staigar states that he has been out to the site during the weekdays recently to take parking counts on the site and how many are being utilized by the existing occupations on site and where it occurs.

Mr. Staigar points to four sections on the Exhibit Board.....Area1, 2,3 & 4.

Traffic counts from 6:30am to 7:30pm at 10minute increments. Currently the site is occupied by 4 tenants....total square footage being occupied is 87,700sf.

Mr. Staiger explains that 126 parking spaces are occupied on site at 10:00am and any other time of the day from 6:30am until 7:30pm it was less than 126spaces being utilized.

Maximum use of parking is on the North East corner of the site & on the Western area of the site.

Discussion continues.....

Mr. Staigar's continues to answer all concerns to how much traffic is generated and how many parking spaces are needed during peak hours.

Mr. Staigar points out to the Board Members that Retro fitness peak hours were 5-7am & 6-8pm in the evening. We found during these time periods, the parking on the site is much lower. There were 54 parked cars on the site at 5am compared to 126 at 10:00am and by 7pm there are only 33 cars parked on the site. The Health Club use is certainly compatible with all the other uses on this site. There is a shared parking concept that is being utilized.

Mr. Newman asks Mr. Della Valle to please step forward and questions him on the maximum number of club members during the peak hours.

Mr. Della Valle explains they would run from 6-8, an average of 50-60 check-ins per hour during that time. That is Monday, Tuesday & Wednesday of the week.

Mr. Staigar comments that that compares to the 108 parking spaces that I used in my analysis.

Site circulation or difficulties noted are mentioned.....

Mr. Staigar sees no issues except for the trucks that Ms. Spindel had mentioned and that will be retified with signage. This proposal is very compatible with the site.

Mr. Liebman has no further questions for this witness.

Mr. Newman asks if the Board Members have any other questions. Seeing none.

Mr. Newman asks if the Board Professionals have any questions.

Mr. Mark Kataryniak reviews his reports with the Board and Mr. Staigar.

Mr. Paul Azzolini also makes note.

Mr. Newman opens the witness up to residents within 200ft. Seeing none.
Mr. Newman closes this portion.

Mr. Newman opens the witness up to the general public. Seeing none.
Mr. Newman closes this portion.

Mr. Liebman brings his next witness, Ms. Bryant, Planner.

Mr. Newman swears in Ms. Bridget Bryant, Professional Planner for Burgess Associates. Licensed in the State of New Jersey and has been before the Board in the State of New Jersey at least 2000 times.

Mr. Newman certifies her as an expert witness.

Mr. Liebman asks Ms. Bryant to please give the Board your basic impressions and conclusions.

Ms. Bryant explains to the Board that an important part of this application is its location and the surrounding land uses. The fact that this site is located within the mixed Industrial District, to the north of a Multi- Family Residential and adjacent to a Mass Transit Stop gives it an ideal location for a Health facility.....it serves not only the daytime population but also the nighttime population.

The Master Plan is discussed.....promotes a balanced variety of Residential & Commercial Land Uses. .

Ms. Bryant explains again why they are here tonight for a Use variance. Positive and negative criteria is discussed.....

Ms. Bryant mentions the positive criteria because it encourages the redevelopment of an older Industrial site with a current commercial use that will serve the population of the Borough.....it furthers the goals of the Master Plan, furthers the goals of the 208 study and the Municipal Land Use Laws....

Ms. Bryant continues.....

Negative Creteria: No substantial detriment to the public good. It will encourage and promote a use that is good for the public. It will compliment and serve the residents. No impairment to the Master Plan.

Ms. Bryant continues with the Shared Parking aspect of the application.....

Mr. Liebman has no further questions for this witness.

Mr. Newman asks the Board if there are any questions for this witness. Seeing none.

Mr. Newman asks the Board Professionals if there are any questions for this witness.

Mr. Newman swears in Mr. Peter Van Den Kooy, Board Planner.

Mr. Van Den Kooy questions the handicap ramp.....and the lightening.

Mr. Liebman again reiterates that if there are any recommendations or changes that need to be made, they will gladly accommodate them.

Mr. Newman opens the witness up to residents within 200ft. Seeing none.

Mr. Newman closes this portion.

Mr. Newman opens the witness to the general public. Seeing no one.

Mr. Newman closes this portion.

Mr. Liebman summarizes with thanking the Board for the time they have given and states that he feels this is a great addition to the neighborhood.....

Mr. Charipper makes 1st motion to approve the application.

Mr. Salerno seconds the motion.

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

Application Approved.

Minutes:

- 1 Mr. Charipper made a motion to approve the minutes for the **November 13, 2008** meeting and **December 15, 2008** and Ms. Spindel seconds the motion.

VOTE: All Present - AYE

Resolutions:

1. Application #2009-093, Gad & Iris Tzour, 12-35 Fairclough Place, Block 4613, Lot 1, Zone R-1-3– Driveway Expansion- Approved.
2. Application #2008-072, Oscar & Donna Krieger, 8-05 River Road, Block 5503, Lot 24, Zone R-1-3– Use variance- Denied

Mr. Charipper makes a motion to approve the resolutions and Ms. Spindel seconds the motion.

VOTE: All Present - AYE

Estimates/Bills:

1. Karen Koscis in the amount of \$225.00
2. Karen Koscis in the amount of \$275.00
3. William Soukas in the amount of \$117.00
4. William Soukas in the amount of \$575.00
5. Medina Consultants in the amount of \$1000.00
6. Birdsall Engineering in the amount of \$3000.00
7. Birdsall Engineering in the amount \$2, 821.25
8. Birdsall Engineering in the amount \$42.50
9. William Soukas in the amount \$4,904.43
10. William Soukas in the amount \$553.81
11. William Soukas in the amount \$687.50
12. William Soukas in the amount \$54.00

Mr. Meer made a motion to approve these estimates and Mr. Charipper seconded the motion.

VOTE: All Present – AYE.

Adjourn

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

TIME: 11:15 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk