

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Of June 15, 2009**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on June 15, 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. Diner, Ms.Spindel, Mr.Frankel, Mr.Blecher, Mr.Salerno, Mr.Meer & Mr.Newman.

Absent: Mr. Sacchinelli, Mr. Charipper arrived at 7:20 p.m.
Mr. Karas(recused himself)

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

Mr. Newman opens the meeting stating that before he opens the Residential New business he would like to make notice that Commercial Application#2009-013, Tribal Iron Choppers will be carried to July 20, 2009.

Residential New Business:

1. Application#2009-018, Jignesh & Kanan Shah
12-03 Fair Lawn Ave, Block 4709, Lot 8, Zone R-1-3
Proposed 6ft. fence in the front yard setback where 3ft. is permitted
as per Section 125-38.A.

Mr. Newman swears in: Mr. Jignesh Shah

Fees have been paid and there is proof of service.

Mr. Newman asks Mr. Shah to explain what it is he would like to do.

Mr. Shah begins by state he would like to have a 6ft. fence for a safe and secure and a private yard for the children who are ages 2-3 years of age.

Mr. Newman explains to Mr. Shah that the way the Land Use Laws are written, the reasons why you may feel you need a 6ft. fence as you state for your children have no

bearing on this Board's decision. It would have to be a hardship to some extent, the parcel of land, the property?

Mr. Shah points to the survey and explains he is on the intersection of Fair Lawn Ave & Elmwood Place. A 3ft. fence would not give me much area...

Discussion continues on the location of the fence.

Mr. Newman questions the survey and the highlighter area on the survey. Mr. Newman points out to Mr. Shah that he has a very interesting situated house on this unusual lot. It is a corner lot and an irregularly shaped lot.

Mr. Shah agrees.

Discussion continues.....

Ms. Spindel asks the applicant if he would consider a 5ft. fence.

Mr. Shah would prefer to stay with a 6ft. He would consider a 5ft. with a lattice.

Discussion continues....

Mr. Newman questions the site and if it would obstruct the vision of the cars.

Mr. Shah replies no, it is still 50ft. or so from the corner...

Mr. Newman asks Mr. Shah if he would install the fence and align them evenly on both sides to the façade of the house.

Mr. Shah agrees to that with no problem.

Mr. Newman opens up 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 made a motion to approve the application with an amendment to the application that the fence would be aligned on both sides to the façade of the house.

Mr. Blecher seconds the motion.

VOTE: Mr. Diner, Ms. Spindel, Mr. Frankel, Mr. Blecher, Mr. Salerno, Mr. Meer & Mr. Newman. **YES.**

Application Approved.

Mr. Newman states for the record that Mr. Charipper arrived at 7:21 P.M.

2. Application #2009-019, Pedro & Christina DaCosta
1-43 27th Street, Block 3312, Lot 43, Zone R-1-3
Proposed 6ft. fence in the front yard setback where 3' is permitted
As per Section 125-38.A.

Mr. Newman swears in Christina DaCosta

Fees have been paid and there is proof of service.

Mr. Newman addresses Ms. DaCosta and points out that similarly as with the prior application having to do with a 6ft. fence, when we are looking at a situation like this it doesn't play into the Board's decision in any way, the reason you need a fence, the reason you think you need a fence that high. We need to look at the characteristics of the property or what may or may not require or necessitate this type of fence. I am looking at the survey and you are also on the corner of Rosalie & 27th Street. Can you tell me more about the fence you would like to put in?

Ms. DaCosta begins her testimony explaining to the Board and referring to the pictures submitted with her application pointing out the front and the side entrances. She states she would like a safe living environment. It is a busy street(Rosalie Street) and usually uses the side entrance. She would like some privacy and would benefit from having the higher fence for safety reasons.

Discussion between Mr. Newman & Ms. DaCosta continues.....

Mr. Newman wants to clarify that what they are looking to do is fence off the side of the driveway, bringing the fence down along Rosalie Street over to the house and back up, but there is still free access around the back of the garage to the other side of the driveway. Correct?

Ms. DaCosta agrees.

Discussion about the setback requirement on the Rosalie Street side is being clarified by Ms. Peck.

Mr. Newman asks if this fence would impede the line of sight from Rosalie to 27th or vice versa?

Ms. DaCosta replies No.

Mr. Newman states that she does have an undersized lot on Rosalie and it is a corner lot with two front yard setbacks.

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

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

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

VOTE: Mr. Diner, Mr, Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer & Mr.Newman. **YES.**

Application Approved.

3. Application#2009-020, Eduard & Isabella Polyak
5-11 Eugene Street, Block 2406, Lot 29, Zone R-1-2
14'x26' Deck would reduce the rear yard setback to 17' where 20' is
Required as per Section 125-34.A.(4)

Mr. Newman swears in Mr. Polyak.

Fees have been paid and there is proof of service.

Mr. Newman: Mr. Polyak, please tell me about the deck.

Mr. Polyak begins explaining that his deck was almost done. He started the project last year with a proposed 3ft. height. I want permission to raise it because it is very inconvenient to use the steps from the dining room going to the deck and I was told I had to go for a variance.

Ms Peck(Zoning Officer) explains to the Chairman that Mr. Polyak came in last year for a building permit and was told that if a deck was 36" or higher he would have to meet the rear yard setback. He received his permit and during construction, there must have some change and during a re-inspection it was more than 36" which now causes him to have to come for a variance for the rear yard setback.

Mr. Newman speaks to Mr. Polyak and asks what is he looking at now? In the course of the construction, the goal was to keep it under the 36" so that you didn't have a variance to worry about, but when the deck was finished, it was deemed at 36"???

Mr. Polyak explains that during construction it turned out the height was 36inches but it was tilted at the back and measured almost 37”.

Discussion continues.....

Mr. Newman asks for clarification from the zoning officer that if he were ¼ less on this deck, he would not be before the Board.

Ms. Peck states yes.

Discussion continues.....

Mr. Polyak tells the Board there must be some misunderstanding.... He is here before the Board for permission to raise the deck 5ft. from the ground and discusses the proposed plans as submitted.

Ms. Peck speaks to the Chairman and clarifies that the height would not be the issue as first discussed. It would be the setbacks now.

Mr. Newman understands and continues his questioning and asks if there are any other decks in the surrounding area. Will it cause any privacy issues with your neighbors when you raise this up?

Mr. Polyak replies no and that he has support from his neighbors.

Mr. Newman opens the applicant to residents within 200ft.

Mr. Newman swears in: Gerald Platt, 5-??(inaudible) Carle Street, Fair Lawn

Mr. Platt explains he is the back to back neighbor. I see no objection to his deck, & I’m the one that would be the most affected by his proposal. No privacy issues at all.

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

Mr. Newman closes this portion.

Mr. Newman opens the applicant to the general public.

Mr. Newman swears in Harvey Rubenstein, 17-38 Chandler Drive, Fair Lawn.

Mr. Rubenstein questions the height of the deck and mentions the 36ft. that was stated in error instead of 36”.

Mr. Newman states that it is neither 36ft. or 36inches, It is 5ft. otherwise we would have had a height variance then....(laughter)

Mr. Newman asks for a motion.

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

Ms. Spindel seconds the motion.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer & Mr. Newman. **YES**

Application Approved.

4. Application#2009-021, Eileen Griparich
37-10 Victoria Road, Block 2518, Lot 25, Zone R-1-2
Proposed new front platform would reduce the existing front yard
Setback from 21.55ft. to 17.55ft. where 30ft. is required as per Section
125-12 Schedule of area yard and building requirement.

Mr. Newman swears in Ms. Eileen Griparich.

Fees have been paid and there is proof of service.

Mr. Newman asks Ms. Griparich if it is a small front porch she is proposing.

Ms. Griparich explains she would like a platform landing with two steps going into the house. She continues to explain that she did an add-a-level two years ago and should have done the steps and landing then. If I put a platform I could open the door and stand on the landing and open the door. The houses around me to the right and the left all have platforms.

Mr. Newman states that this would fit in nicely with the character of the neighborhood.

Mr. Newman asks the Board if there are any questions or comments. Seeing no one.

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

Mr. Newman closes this portion.

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

Mr. Newman closes this portion.

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

Mr. Diner seconds the motion.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer & Mr. Newman. **YES**

Application Approved.

Mr. Newman states that before he opens Commercial Old Business, He would like to jump ahead to Variance Extensions.

1. Application#2004-050, Jin Chiu Lu,
28-15 Rutgers Terrace, Block 3621, Lot 27

Reads the correspondence from Ms. Lu asking for an additional extension due to hardships and reminds the Board that we received a similar correspondence in June 10, 2008 and at that time we extended it for 1 year.

Mr. Newman: Any comments or questions from the Board. Seeing none.

Mr. Newman: Questions or comments from residents within 200ft. of the extension.
Seeing none.

Mr. Newman: General Public. Seeing none.

Mr. Newman asks for a motion.

Mr. Salerno makes 1st. motion to grant the extension.
Ms. Spindel seconds the motion.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer
& Mr. Newman. **YES.**

Variance Extension granted.

2. Application #2008-017, Igor Yelisseyev & Alexander Mirtchouk
12-23 Fairclough Place, Block 4613, Lot 4

Mr. Newman reads the correspondence received from Mr. Mirtchouk asking for an 1year extension for the zoning variance that was approved in 2008 due to financial hardship.

Mr. Newman asks the Board if there are comments or questions from the Board.
Seeing none.

Mr. Newman opens the applicant to residents with 200ft. Seeing none.
Mr. Newman closes this portion.

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

Mr. Frankel makes 1st motion to approve the extension.
Mr. Charipper seconds the motion.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer
& Mr. Newman. **YES.**

Variance Extension Approved.

RECESS: 5minute

Mr. Newman reopens the Meeting

ROLL CALL: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno,
Mr. Meer & Mr. Newman.

Commercial Old Business:

1. Application#2009-078, European Learning Center
41-21 Dunkerhook Road, Block 1702, Lot 7, Zone R-1-2
Change an existing Nursery School with prior approval to a Commercial
School for Kindergarden through 8th grade. Commercial Schools for profit are
not permitted in a residential zone as per Section 125-17.B.(2) D-1 variance
required as per Section 125-57.D.(d)

Mr. Andrew Karas (Attorney on behalf of the applicant, European Learning Center)

Fees have been paid and there is proof of service.

Mr. Karas opens the meeting with the explanation of why he is here tonight. Testifies that in 1985 & 1986, his client was approved to run a Day Care Center and in & about 1999, 2000 it was converted from a nursery school to a private school. Presently there are 27 children from kindergarden up through to 8th grade. My clients were not aware of the necessary steps & the requirements for a variance. Mr. Karas continues with the variance they are seeking tonight, to allow the operation & continuance of a commercial school in a residential zone which would be a D-variance.

Mr. Karas states he will present testimony by his client tonight and also a Planner who would satisfy all the elements required for a D-variance.

Mr. Newman swears in Mr. Andrew Kourkoumelis, 41-21 Dunkerhook Rd, Fair Lawn

Mr. Kourkoumelis testifies to the purchase of the premises in 1984 and how they applied to have a Nursery School up to the 1st. grade. DYFS saw the children were getting older and suggested that they consider a private school. We did that 10 years ago and at the time

we needed a sign because there was confusion where the road was at the intersection of Dunkerhook & Saddle River Road. We applied for a variance to have a sign with European Learning Center with Kindergarden & Grade School. We were under the impression that it was well known that we had a Grade School until last year when they informed us that No....it was a R-1-2 Zone, so therefore we would have to apply officially to have the grade school operation continue....

Mr. Karas cross examines Mr. Kourkoumelis and reiterates the facts.....how long the operation of the school has existed....

Testimony continues.....

Mr. Kourkoumelis states he has three(3) teachers currently, a Russian Teacher, a Music teacher and a Art teacher....

Testimony continues.....

Mr. Kourkoumelis explains that it is a private residence and the back of the building houses the school. The school is licensed by the State of New Jersey. Hours of operation are 8:00am-6:00pm, five days a week.

Parking is discussed....

Drop off and pick up hours are discussed.

Mr. Karas ends his cross examination.

Mr. Newman questions the sign and what it says.

Mr. Karas marks the Resolution pertaining to the approval of the sign as A-1

Mr. Karas reads from the Resolution.

Mr. Newman clarifys what is on the sign.....”European Learning Center, Kindergarden Center and the Owl Logo.

Mr. Kourkoumelis adds “& grade school”.

Mr. Newman states that the resolution does not include “& grade school”.

Discussion continues.....

Council has advised the Chairman that we will have to amend that if indeed that is what the sign says...

Mr. Newman asks if there are photos of the sign?

None are available.

Mr. Newman explains that if this indeed is what the sign says, that it is not a sign that was approved by the Borough.

Mr. Karas agrees.

Discussion continues.....

Mr. Newman questions Mr. Kourkouvelis on the license issued by the State of New Jersey...

Mr. Kourkouvelis replies he is licensed as a grade school up to the 8th grade. He received it 8 or 9 yrs ago approximately. He was authorized to run as a private school. He wrote letters along with affidavits until letter of approval was received. Mentions DYFS and how they are designed to regulate schools with children from kindergarden until 1st grade....

Mr. Newman states that if he understands this correctly, upon review from DYFS some 10years ago, they determined that you were no longer operating as a K thru 1 school and you had older children there and therefore advised them to apply to the State for the operation of a Private School.

Mr. Kourkouvelis explains that yes, they did have older children but thought that it was totally legal. He goes on to explain that every year they get special funding when it comes to technology and books.....

Discussion continues.....

Medical Records are kept....

Funding is discussed...

Board Attorney notes for the record, that the Fair Lawn Board of Education is a separate legal entity from the Borough itself so whatever knowledge the Board of Ed. may have cannot be imputed to the Borough with respect to this particular use.

Mr. Meer notes to his recollection that when they came in for an approval for a circular driveway, he was under the impression that it was a school for Nursery school children only.

Mr. Newman wants to know how & when they were notified by the Borough that you were operating outside of what you should be.

Mr. Karas states through a letter that came from the Zoning Board of Adjustments dated September 15, 2008.

Ms. Peck testifies that the owner came in for a construction permit and during the course of the conversation there was mention of a pond. I questioned the safety of a pond in a Nursery School and that is when it was mentioned they were no longer operating as a Nursery School. I checked the file, we had no record of them ever converting so I sent them here to get a use variance.

Mr. Newman asks if any members of the Board have questions.

File records are mentioned...
Discussion continues....

No further questions for the witness.

Mr. Newman opens the witness to residents within 200ft.

Mr. Newman opens the witness up to the general public.

Mr. Harvey Rubenstein, (still sworn) questions if they are discussing an increase of the number of students and if so, is there any intention of increasing the size of the building?

Mr. Newman calls Mr. Kourkourmelis back to the podium to answer the question to which Mr. Kourkourmelis replies no more than 30 students is his intention and has no intention to increase the building size.

Discussion continues on how many students were approved at the time for the Nursery School.

Mr. Kourkourmelis replies he thinks approximately up to 45 students were allowed.

Discussion continues.....Prior Resolutions are discussed.....

Mr. Karas calls his next witness.

Mr. Newman swears in: Catherine Gregory, Principal of Gregory Associates
96 Winwood Plaza, #350
Fort Lee, N.J.

Ms. Gregory is a Professional Planner licensed in the State of New Jersey since August of 2000.

Ms. Gregory is accepted as an expert witness.

Ms. Gregory begins her testimony with an Exhibit of an 8 1/2 photo to be marked as A2. It represents existing conditions and surrounding neighborhood characteristics for 41-21 Dunkerhook Rd., Fair Lawn, N.J.

Photos are passed along to the members of the Board.

Ms. Gregory explains the series of photos....two aerial photographs are included. Ms. Gregory also noted for the record, she never saw the sign. She never noticed the sign even when she was looking for the house.

She continues her testimony with specifics of what is permitted in the R-1-2 district with regards to schools. Prohibited uses are schools operated for profit except such schools for pre-school age children. A private non profit day school is a permitted use for both elementary and secondary education but our clients are not characterized as a non-profit school. They are a for-profit school.

From a Land Use perspective, there is no difference on how it operates. The difference here is that it is on a much smaller scale than a typical public school.

Testimony continues.....

Ms. Gregory does not feel there is any impact on any residential property based on the traffic that goes to and from the site would not be traveling thru a residential neighborhood because it is located on a major street. Looking at the aerial photographs, the property is heavily landscaped so any type of impact that would be associated with a School seemed to be mitigated in terms of the property itself.

Ms. Gregory again stresses that because of their clients are not considered to be a “Non-Profit School” they are here for a Use variance.

Schools are an inherently beneficial use. It has already been proven through the Case Law that inherently beneficial use meets the special reasons and obviously a school meets the public safety and general welfare.

Ms. Gregory considers this school a Private School that is licensed by the State so the criteria that we need to meet are the four part ???(Inaudible)

Mr. Karas continues his cross examination.....

Ms. Gregory believes that they promote a couple of the purposes of the Land Use Law. The first being, public safety and general welfare, second; adequate light and open space,

We would have to meet the negative criteria. We would have to prove that there is no substantial detriment to the public good and no impairment to the intent and purpose of the Zoning and Planning Board Ordinance.

The impact to the public good has already been tested and to my knowledge there has been no violations or complaints from neighbors or the surrounding area.

Testimony continues.....addressing the positive and negative criteria.

Ms. Gregory believes that they meet the criteria for both the positive and the negative for the granting of a use variance of a For-Profit Private School.

Mr. Newman asks the Board members if there are any other questions of the Planner, Seeing none.

Mr. Newman opens the Planner to anyone within 200ft. Seeing no one.
Mr. Newman opens the Planner to the general public.

Mr. Harvey Rubenstein steps forward and questions the Planner on her testimony of the residential area and if there is a sign restricting traffic flow. Do people just come out and make a left hand turn onto Fair Lawn Ave.?

Ms. Gregory does not remember a sign. Maybe the question should be asked of the client.

Mr. Soukas notes, there is a one way sign on the exhibit but nothing that limits turns.

Mr. Karas refers back to the number of students allowed and speaks of a letter from a Mr. Harry Clinton, architect from 1992 application(reads from the letter) and uses this as a reference or as an indication of what the permitted number of which is 42.

The Letter is marked as A-3.

No other witnesses.

Mr. Newman calls Mr. Kourkoumelis back to the podium.

Mr. Newman asks Mr. Kourkoumelis to expand on his relationship with the State, B.O.E, structure, etc.....

Mr. Kourkoumelis talks of inspections from the Fire Department which are required once or twice a year, the Health Department and from the County, a Nurse to check Medical Records. The State only attains the number of students we have, which is 28.

Mr. Newman asks if the State has a limit on how many students you can have?

Mr. Kourkouvelis replies no. There are no limitations. We do not have more than that because we would have to get approval from the town because of the size and number of rooms.

It is noted that the State does not have any limitations on the number of students. There is no criteria, no requirements, no needs. If you have a school and you are registered under the State of New Jersey, therefore you are permitted to have as many as you want depending on the town approval per square feet.

Discussion continues.....

State tests are discussed.....

The State does not have curriculum requirements.

Mr. Newman asks Mr. Kourkouvelis if he had any objection to limiting the number of students to 30 if the Board were to grant this approval?

Mr. Kourkouvelis replies none whatsoever.

Mr. Karas summarizes his application.....

Mr. Soukas (Board Attorney) reminds the Board that Ms. Gregory made argument and presented testimony in favor of this use as inherently beneficial use. If you do believe that it is inherently beneficial, I ask for the clarity of the record that you put your reasons on record.

Remember that an inherently beneficial use presumably satisfies the positive criteria in terms of site suitability and the goals of the MLUL. You still have to prove the negative criteria. If not however, then you are required to perform the balancing test of the positive and the negative criteria as testified by Ms. Gregory.

Mr. Newman asks for a motion.

Mr. Charipper makes 1st. motion to approve the application with the agreement by the applicant that the roster at no time can include no more than 30 students.

Ms. Spindel seconds the motion.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer
Yes. All agree that the school is inherently beneficial with no negative criteria.

Mr. Newman, does not agree that a private school is inherently beneficial. Nevertheless, he does think that on balance this passes the test and meets the negative and positive criteria and there is no detriment to the public good and no substantial detriment to the zone plan/zone ordinance. With that my vote is **Yes.**

Motion carries.

Application Approved.

2. Application#2008-088, Eurocars
18-02 River Road, Block 5729, Lot 4, Zone I-1
A use variance and site plan approval so as to permit the applicant to operate an Auto repair facility and all other variances and waivers that may occur on said premises.

RECESS: 5minutes

ROLL CALL: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Blecher, Mr. Salerno, Mr. Meer & Mr. Newman.

Fees have been paid and there is proof of service.

Mr. Andrew Karas(Attorney on behalf of the applicant) briefly describes what the application is and why they are here tonight.

It is a high end type of business for specialized types of automobiles.

Mr. Karas refers to the Birdsall Engineer Report, in section4A, Code section 124-15 lists an automobile/repair shop as a Prohibited use in all zones, that is not correct, what this section provides for is that Automobile Body Shops are not permitted use. That is a very important distinction. There is no proposed Auto Body Type work that goes with this proposed use.

Mr. Karas continues with the distinction of the two.....

1st.witnesses is called.

Mr. Newman swears in Mr. Heinz Langeneckert, applicant &owner of Eurocars.

Mr. Langeneckert testifies that his business is an auto repair facility. Speaks of his existing business working on specialized cars and what he plans to do.

Mr. Langeneckert testifies to the description of the building, the number of proposed employees he will have at the business which would be two including himself and a part timer on an as-need basis. Hours of Operation, 8-5pm Monday through Friday.

No change to the building as far as upgrades, no lifts....

Signage is proposed to change.

Delivery is questioned.

Mr. Langeneckert states there is a UPS trucks and a small delivery truck who delivers parts.

Four cars are normally at the site being repaired, unless one comes in on a tow truck.

Mr. Newman asks Mr. Karas if he could elaborate on the letter from the Fair Lawn Environmental Commission.....

Oils and Fuels are discussed. Mr. Langeneckert testifies there are drums for the oil-55gallon drums.

Parking is discussed.

Grading is discussed.....

Mr. Karas brings to the attention of the Board the grading of the property, runoff into the Passaic river. An application before this Board that went on for 7years, I represented the property owner at that time. Issues regarding, drainage, spillage....all of that was addressed in that application and I recall after all those issues were addressed, it was approved.

Engineer will go over all the information when he is called.

Ventilation is mentioned. Mr. Langeneckert testifies that he does not let the cars idle inside the building and very rarely on the outside. Just for a short period of time to insure everything is O.K. and then he drives it.

Ms. Spindel asks if the proposed parking is correct. Six outside and three along the building , total 9 on the exterior. Overnight Parking?

Mr. Langeneckert states he does not leave any cars on the outside of the building overnight.

Mr. Newman asks the Board Professionals if there are any questions for the witness.
Mr. Newman swears in all Board Professionals.

Mr. Azzolina(Board Engineer) No questions for the witness.

Mr. Mark Kataryniak (Traffic Engineer) refers to his report of February 20, 2009.
Questions Mr. Langeneckert on the operations.....duration of the vehicles on site? Do customers drive the vehicles to your site or do you pick up the vehicles??

Two days is the duration usually and picks up most vehicles from his clients.

Discussion continues.....

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

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

Mr. Harvey Rubenstein(still under Oath)asks if there are any modifications in the plans for landscaping or fixing the sidewalks?

Mr. Karas states there is no sidewalk in the area....

Mr. Karas calls his next witness: Douglas Grysko, Dynamic Engineering Consultants
19-04 Main Street
Lake Cuomo, New Jersey

He is a Licensed Professional Engineer in the State of New Jersey.

Mr. Grysko states his credentials.

Mr. Newman accepts him as an expert witness.

Mr. Grysko begins his testimony with an Exhibit, marked as A-1, which is a colored rendered aerial exhibit taken from 2007. Depicting the current property location.

The current property consists of one building used by Eurocars. The remainder is used for the bus parking facility.

Mr. Grysko testifies how the traffic onsite affect the surrounding traffic. Access to the site would be provided at the River Road entrance. It is a one way circulation which runs parallel to the Passaic River. Points to the exhibit.....

There would be no interference with the operations of the buses.

Testimony continues.....

Fueling facility for the buses is stationed away from the main entrance of the existing building of the proposed site.

Parking for the proposed use is within the building. Six (6)Additional spaces are currently provided along the Southern side of the building for cars that are waiting to be worked on.

Parking Striping is being proposed for the outside. Eight spaces are on the interior of the building for a total of 14 spaces.

Discussion continues....

Mr. Grysko again points to the Exhibit explaining the operations of the business and the traffic flow and recommendations are given.

Two way mirrors could be installed as a recommendation on each corner of the garage for visual help to assist on improving safety at the site.

Existing Dumpster is discussed and Mr. Grysko states that the Dumpster is proposed to be relocated to an area to the East where it would be more accessible from the building to dispose of the trash and also not interfere with the existing bus parking and/or the parking spaces for the building.

Mr. Karas refers to the Birdsall Report, dated January 21, 2009, section 5....circulation & Pedestrian issues.

Mr. Grysko testifies that pedestrians would not be conversing through the site. There is no detrimental aspect as it exists now.

Testimony continues...

Deliveries are of no concern....existing striped area could be used for loading purposes in the confines of the front garage door. No changes are needed.

Lightening is discussed....

No changes necessary.

Storm water concerns are mentioned.

Received NJDEP Approval. Permits retained. No revisions are needed or proposed.

Parking that was discussed did not account for an accessible parking space for ADA and based upon this Mr. Grysko testifies that he and the applicant are willing to work with the Engineer to provide a space for handicap accessibility.

Mr. Newman asks if there are any questions or comments from the Board Members. Seeing none,

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

Mr. Paul Azzolina refers to his report dated February 23, 2009.

Mr. Karas speaks to Mr. Grysko and addresses Mr. Azzolina report. Drainage....circulation, parking.

Mr. Grysko answers all questions, concerns & issues.

Dumpster is again discussed.

Currently on the South East corner of the building in the striped area that we have for the proposed parking, there is an Emergency shut off switch for the above ground Fuel tanks As part of this application we sill make sure there is no obstruction for getting to the switch. It will be visible and accessible at all times.

Mr. Azzolini states with Mr. Grysko testimony, he is satisfied with all the concerns stated in his report.

Mr. Kataryniak(Board Traffic Engineer)comments and refers to his report of February 20, 2009.

Specifics of the pump and the configuration are discussed.....operational practices.

Mr. Grysko speaks to this....feels there is no impact to the surrounding area.

Discussion continues.

Bus traffic/dump truck circulation is discussed...

Mr. Kataryniak is concerned with early morning traffic, recommends restriction on the dumpster access before 9:00.

Applicant is willing to do this.

Mr. Newman opens the witness to residents within 200ft. Seeing none,
Mr. Newman opens the witness to the general public.

Mr. Newman swears in: Joseph Mele, on behalf of the Environmental Commission, of
15-25 11th Street, Fair Lawn, N.J.

Mr. Mele speaks to inside parking. The count includes number of parking spaces permitted. What is the justification for this?

Mr. Grysko speaks to this.....

Mr. Mele clarifies the Use...

Mr. Karas calls his next witness.

Katherine Gregory (Previously sworn) a Professional Planning Consultant .

Ms. Gregory refers to an 8 1/2x14 photo exhibit, entitled existing conditions and surrounding neighborhood characteristics for Eurocars in Fair Lawn, N.J.

Marked as Exhibit A-3.

Ms. Gregory speaks of industrial type uses that exist in the area....speaks to the B-1, B-2, B-3 and B-4 zones that permit auto repair as conditional uses. Feels it is suited for the proposed use because it is located in the industrial zone.

Speaks of the Positive criteria.....property is unique, located away from residential areas. Size of property can accommodate the proposed use. Building needs no modification except for the proposed striping and the dumpster issue.

It would not be visible from River Road.

It would not create any additional vehicular traffic that would negatively impact the industrial area or River road.

Ms. Gregory continues to testify that the site satisfies the special reason criteria....

Particularly suited for the proposed use because the applicant was improving the existing structure that is suitable for the use rather than building a new structure which is in the public interest...

Not located in a Residential zone.

Applicant's business is such that it fits in the Industrial zone..

Ms. Gregory speaks to the negative criteria which will be met being that the proposed use causes no substantial detriment to the public good. Property is tucked away from residential areas and off the road and is in the industrial area...

The proposed use presents no substantial impairment to the Master Plan and it's an appropriate use of the property....

Appointment only facility...

Ms. Gregory completes her testimony.

Mr. Newman asks if the Board members have any questions for the witness.
Seeing no one,

Mr. Newman asks the Board Professionals is they have any questions of the witness,
seeing none,

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

Mr. Newman mentions stipulations on some of the topics discussed:

1. Onsite waste storage, compliance with proper collection, storage of waste oil and engine fluids.
2. Capping the drywell currently existing near the rear access door
3. Switching to the Head- On parking as suggested by our Traffic Engineer.
4. Relocation of the dumpster & restriction of access of the dumpster before 9:00a.m.
5. Two-way mirrors attached to the corners outside of the building
6. Signage regarding customer parking and employee parking.
7. Designate one(1)bus parking space for state inspection.
8. One ADA accessible parking space for this site.

Discussion continues.....

Mr. Grysko is called back to discuss traffic flow regarding the New Fencing School and this proposed use. How they would work together as far as traffic flow.....

It is determined hours of operations are different and should not cause an issue.

Mr. Karas concludes his testimony.

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

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Frankel, Mr. Salerno, Mr. Meer & Mr. Newman, **YES.**

Motion Carries.

Application Approved.

Application#2009-022, Fair Lawn Fire Company#1, Inc.
12-34 George Street, Block 5611, Lots 19-24(24.01)
Amended site plan, variance and subdivision approval as to permit the applicant to renovate the existing firehouse in the R-1-3 zone.

Mr. Newman & Mr. Karas discuss the application and agree because of the late hour to carry the Application to the next meeting which is July 20, 2009

No further notice will not be required.

Minutes

1. Ms. Diner made a motion to approve the minutes for the April 27, 2009 meeting and Ms. Spindel seconded the motion.

VOTE: All Present - AYE

Resolutions:

1. Application #2009-014, Simon Muckatt, 16-62 Elliott Terrace, Block 4800, Lot 1, Zone R-1-3– Building and Impervious Coverage- Approved. Driveway-Denied
2. Application #2009-015, Joshua & Amy Fogelman, 3-34 Lyncrest Avenue, Block 4319, Lot 1, Zone R-1-3– Addition- Approved with amendments.
3. Application #2009-016, Michael Zislis & Julia Vogman, 25-06 Berkshire Road, Block 3218, Lot 14, Zone R-1-3– Addition- Approved with amendments.
4. Application #2009-017, Tadeusz & Halina Sadj, 13-15 Emerson Drive, Block 4711, Lot 1, Zone R-1-3– In ground pool-Approved with amendments.

Mr. Diner made a motion to accept these resolutions and Mr. Salerno seconded the motion.

VOTE: All Present – AYE.

Bills & Estimates:

1. Estimate submitted by Paul Azzolina in the amount of \$2,000.
2. Estimate submitted by Birdsall Engineering in the amount of \$3,000.
3. Estimate submitted by Medina in the amount of \$1,600.
4. Karen Koscis in the amount of \$275.00
5. Karen Koscis in the amount of \$150.00
6. Bill Soukas in the amount of \$833.00
7. Bill Soukas in the amount of \$25.68
8. Bill Soukas in the amount of 1, 063.26
9. Bill Soukas in the amount of \$72.00
10. Azzolina & Feury in the amount of \$450.00 for Eurocars, Inc.
11. Birdsall Engineering in the amount of \$530.00 for Eurocars, Inc.

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

VOTE: All Present – AYE.

Mr. Newman speaks of the By-Laws with the Board Members. By-Laws were reviewed by all members....

Discussion on changes, modifications if any, needed to be made....some modifications and revisions will be done before final By-Laws are made official by the Board Attorney.

Discussion continues.....

Mr. Newman asks the Board Members to review them again between now and the next meeting and we can look forward to the final draft and vote on them.

Adjourn

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

TIME: 11:00P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk