

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENT  
Regular Meeting  
Of September 21, 2009**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on September 21, 2009.

Chairman Todd Newman called the regular meeting to order at 7:20 p.m. and declared that the meeting was being held in accordance with the Open Public Meeting Law.

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

Absent: Mr. Salerno & Mr. Frankel (Open Space Meeting)

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

Mr. Bill Soukas(Board Attorney) swears in Ms. Donna M. Taylor as a new member to the Board as Alternate IV.

Mr. Newman asks the two attorneys for the Commercial Applications to step forward.

Frank Rivellini from Francis J. DeVito, (Attorney) for Garden State Orthopaedic  
Jeffery Kantowitz (Attorney) from Day Pitney for David Neidani

Mr. Newman discusses the heavy agenda with them and all agree and determine they will see how late the residential applications take before making decisions on carrying the applications.

**Residential Old Business Carried:**

1. Application#2009-024, Philip Mendillo,  
1-33 Summit Avenue, Block 4313, Lot 37, 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 20% to 26% where 25% is permitted. Would increase the FAR from 51% to 55% where 40% is permitted as per Section 125-12 Schedule of area yard and building requirements. Section 125-57.D.(d) D-4 Variance required.

Mr. Newman swears in Mr. Philip Mendillo & Mr.Burton Landau, (Architect for the applicant.)

Mr. Newman asks Mr. Landau to state his credentials.

Mr. Landau is a Licensed Architect in New Jersey, Pennsylvania & Florida.

Mr. Newman accepts him as an expert witness.

Mr. Landau explains to the Board what Mr. Mendillo is looking to do....

Mr. Newman asks to provide some testimony that speaks to the FAR.

Mr. Landau explains that he made no calculations regarding the FAR. He was under the impression that he was here just to speak of the proposal. He was not aware of any issues regarding the FAR.

Discussion continues.....

Mr. Charipper speaks to the architect and suggests carrying the application so that he would be better prepared to answer all concerns regarding the FAR.

Mr. Landau speaks to Mr. Mendillo.....

Mr. Newman explains to Mr. Mendillo that although he was carried from the last meeting, you may not have adequate testimony nor evidence to present your case properly in order to grant the relief requested. We are offering this opportunity so that you can discuss with your expert the FAR and present the case properly if you so wish...

Mr. Mendillo agrees to the carrying of his application to November 16, 2009.

### **Application carried to November 16, 2009**

Mr. Newman announces the “Commercial Applications” that are being carried:

1. Application 2009-013-Tribal Iron Choppers to December 21, 2009
2. Application 2009-034- Mark & Gina Reyn to October 19, 2009

### **Residential New Business:**

1. Application#2009-035, Janusz & Barbara Lach  
3-10 31<sup>st</sup>. Street, Block 2303, Lot 17, Zone R-1-3  
Proposed expansion of an existing non conforming two family dwelling requires a D-2 variance. Section 125-57.D.(d) Maintain existing side yard setback of 3.82’ where 8’ is required. Maintain existing front yard setback of 24.67’ where 25’ is required. Maintain existing building coverage of 31.76% where 25% is permitted. Maintain existing impervious coverage of 39% where 35% is permitted as per Section 125-12 Schedule of area yard and building coverage.

Mr. Thomas Duch, 5-50 Boulevard, Elmwood Park, N.J. (Attorney for the Applicant)  
Mr. Newman swears all: Mr. Janusz Lach, (Applicant)  
Ms. Barbara Lach, (Applicant)  
Mr. Raymond Boos, 13-01 Plaza Road (Architect)

Fees have been paid and there is proof of service.

Mr. Duch explains to the Board they are seeking a variance to add another room on the second floor.

Mr. Lack explains his In-Laws will be moving in to live with them and will live on the first floor and they will move up to the second floor.

Mr. Duch explains the square footage of the home. Brings to the Board's attention they are proposing no change to the Building %, the Building area, impervious coverage, impervious area, the front, rear or side yard setback, essentially we are looking at the FAR in which Mr. Boos will address.

Mr. Boos steps forward and explains, FAR will change from 34.85 to 39.9% just under the 40%., but it is a non conforming use in a 1 family zone.

Mr. Karas questions the survey, dated January 2009. Was that the date it was purchased? It is noted as a 1 ½ story dwelling...photographs showing the front of the property shows Dormer.....how did we get to a two family dwelling? Is it a legal two family house?

Mr. Duch explains....

Mr. Karas wants evidence from the Building Department showing the conversion from a one family to a two family house.

Mr. Duch explains that when this house was built, it was built as a two family...

Discussion continues.....

Mr. Lack states the majority of the houses are two families on the block.

Mr. Duch states he would like the opportunity to go back to his office and pick up the closing file and come back tonight. We purchased the house as a two family. I believe I have the evidence in the appropriate file.

Mr. Newman has no problem with this and states if he returns before the end of Residential new business, he has no issues with reopening the application.

Mr. Newman proceeds to the next application.

2. Application#2009-036, Veronica Burke,  
7-20 Forest Street, Block 5830, Lot 6&7, Zone R-1-3  
Applicant to provide proofs that property has not merged under the Doctrine of Merger. Proposed new two family dwelling requires a D-1 variance as two family dwellings are not permitted in an R-1-3 single family zone. Proposed two family dwelling would have a FAR of 50% where 40% is permitted requiring a D-4 variance. Section 125-57.D.(d)(1) 125-17.A.(1)

Fees have been paid and there is proof of service.

Mr. Anthony Graceffo(Attorney) begins by stating that he represents the applicant by way of her Power of Attorney Patricia Gabriel....Ms. Burke is elderly and has entrusted her niece, Patricia Gabriel as her Power of Attorney.

Mr. Graceffo mentions that there has been a concern raised with respect to the Doctrine of Merger.

Mr. Soukas(Board Attorney) interjects and asks Mr.Graceffo for a copy of the Power of Attorney for the records.(Marked as A-1).

Mr. Graceffo begins.....There are adjacent properties here, Mr. & Mrs. Steven Baldwin who are the parents of the applicant and the grandparents of the Power Of Attorney, Patricia Gabriel ....these lots were purchased separately. Upon the death of Mr. Baldwin, these two properties were conveyed out to the two daughters.

Continues with the history.....

The property has been accessed as Land & Building. It has its own tax bill.

Mr. Graceffo continues with his understanding of the Merger and nonconforming lots and asks Ms. Gabriel to step forward for testimony.

Mr. Newman swears in Ms. Patricia Gabriel,  
56 Country Road South  
Pointing Beach, Florida

Mr. Graceffo begins his cross....

Ms. Gabriel explains how she came about ownership of the property of 7-16 Forest, adjacent to the said property...Properties owned were all within the family.

Discussion continues regarding the Doctrine of Merger & the Supreme Court.

Mr. Karas voices concern over the subdivision issues and refers to Board Counsel.

Mr. Soukas shows concern over lack of common ownership.....given the passage of time, we have a sufficient hurdle of the merger, but I think the lack of a common ownership makes it an uphill climb in terms of our consideration of denial on merger grounds..

Mr. Soukas does not believe that merger would apply under the circumstances here.

Mr. Newman asks if there is no other discussion or objection from the Board, we can consider this aspect closed.

Mr. Karas asks if there should be a motion made on the word of counsel.

Mr. Soukas suggests for the sake of completeness to the extent of the merger issue is identified as a reason for denial by the zoning official, that the chairman should solicit a motion to reverse the Zoning Officer decision.

Mr. Newman would like to hear from the Zoning Officer on her decision.

Ms. Peck explains her decision was based on lack of information, so in my correspondence I advised the Attorney to prove it here.

Mr. Newman asks for a motion to overturn the Zoning Officer's decision as to Merger.

Mr. Karas makes 1<sup>st</sup> motion, property does not require a subdivision from lots 4&5 because the current ownership of Lots 4&5 & Lots 6&7 are under separate ownership.

Ms. Spindel seconds the motion.

VOTE: Mr. Diner, Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Sacchinelli, Mr. Meer & Mr. Newman, YES.

Mr. Newman asks Ms. Gabriel (Power of Attorney) questions on Mrs. Burke, the owner of the property and the reason why she is not here tonight.

Mr. Newman questions Ms. Burke's desire to develop this as a two family and why now?

Ms. Gabriel explains income would possibly be the reason.

Mr. Soukas notes that Power of Attorney is noted from 2007, it has been a condition that has be ongoing for some time.

Discussion continues.....

Mr. Newman asks what the plans would be for the property being she has no children... because if indeed this property was left to Ms. Gabriel we would have a merger issue.

Ms. Gabriel does not anticipate inheriting the property.

Mr. Graffeco states they are over the FAR with this proposal.....explains this to the Board.

Discussion continues.....

Mr. Karas would like to know why a 1 family dwelling couldn't be constructed there.

Mr. Graffeco explains that it would be more economically desirable as a two family. We are not looking to put a two family in a one family neighborhood. It fits the character of the neighborhood.

Mrs. Gabriel describes the neighborhood.

Driveway size is mentioned. Concerns on parking.....

Discussion on site plan & suggestions to alleviate parking issues...

Discussion continues.....

Ms. Spindel voices concern over size of house.

Mr. Graffeco asks if the Board would make an approval of a two family use but subject to Creating four off street parking spaces and reducing the FAR and also the footprint of the structure can come down .

Mr. Sacchinelli states concerns on a six bedroom house, the size....does it have to be three bedrooms on each floor, because most likely a family with children will reside there and will also eventually get their licenses and need a car, hence parking issues.

Ms. Peck mentions that there would need to be another parking variance added.

Mr. Newman states they need relief in three areas, one being D-1 variance for a two family in an R-1-3 single family zone, one for the FAR, and you do not have adequate parking. I think you are trying to put too much in this one lot.

Mr. Blecher & Mr.Charipper both agree with the Chairman.

Mr. Newman makes a suggestion to Ms. Gabriel...There are numerous concerns from the Board Members, perhaps you would like to go back and discuss the plans, with Ms.

Burke and see if she would have anything else in mind in developing this property as a single family dwelling that meets the FAR as well as the other ordinances that she would have to meet & perhaps you would not have to end up back in front of the Board if all the requirements were met.

Discussion continues.....

Mr. Graffeco agrees and would like to revisit this application and we would like another date to carry this application.

Discussion.....it is agreed to by the applicant to carry to the November 16, 2009 Meeting.

Mr. Newman announces to the public that the application is carried to the agreed date.

### **Application Carried to November 16, 2009**

3. Application#2009-037, Leonid & Natalyn Krimer  
17-27 Eberlin Drive, Block 4800, Lot 14, Zone R-1-3  
Existing property is a conforming lot, 65x116.90 where 65x100 is required.  
Existing dwelling has a side yard setback of 9.60' where 10' is required as  
Per Section 125-12 Schedule of area yard and building requirement.

Fees have been paid and there is proof of service.

Mr. Newman swears in both Mr. Leonid Krimer & Natalyn Krimer (Applicants)

Mr. Newman states that Mr. Krimer because of an issue with a side yard setback.

Mr. Krimer explains that they are doing a major remodeling of the house and we are building the house on the same foundation and we meet all regulations except the garage wall-the existing garage wall with an existing foundation. It is 1 inch on one side and 4 1/2inches on the other side where there is 10ft. required. We are seeking a variance from this regulation.

Ms. Peck(Zoning Officer)explains.....the original architect was going to move the garage wall in and avoid the variance, but now that construction is underway, it is a very expensive proposition, so they have decided to seek the variance. The applicant is aware that if the Board denies this he will have to put the house back to what it was before he started construction.

Discussion.....

Mr. Newman asks the Board if there are any questions or comments from the Board.

Seeing none,

Mr. Newman states that it is obvious that this is a pre-existing condition and I think if this was cost free or very inexpensive it is something that would have been done without coming before the Board. It is a very costly proposition so I will ask for a motion.

Mr. Newman opens the applicant up to 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. Meer makes 1<sup>st</sup> motion to approve this application.  
Ms. Spindel seconds the motion.

VOTE: Mr.Diner, Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Sacchinelli, Mr. Meer  
& Mr.Newman. YES.

**Application Approved.**

Mr. Newman calls Application#2009-035 Mr. Duch(Attorney for Janusz & Barbara Lach) back up who has returned from the office to continue the application.

Mr. Duch explains he has the Certificate of Occupancy from the Borough of Fair Lawn and it is checked off as a two family and it was approved March 17, 2009

Certificate of Occupancy is marked as Exhibit A-1  
Certificate of Fire Inspection also noted as a two family marked as A-2

Mr. Duch explains the picture before you shows it is a Cape Cod style house and it does appear to be 1 ½ story as indicated but the plan does show that the building height existing is 21ft., the proposed is 23ft. where the building height requirement is 30ft. We are significantly under.....

Discussion.....

Proof of Legal two family is again discussed.

Mr. Duch explains that in most towns before a CCO is issued, the inspector does research and marks on record that it is a two family dwelling.

Ms. Peck clarifies and states it would never had been issued if there were in fact a Red Flag on the question of it being a two family.

Mr. Soukas(Board Attorney) asks Mr. Duch for clarification on A-1 & A-2-Are these documents that you and your client received in connection with their purchase of the property in question.....

Did you represent them in the property transaction. Did you handle this property transaction from start to finish and in fact you received these documents directly from the Borough of Fair Lawn in connection with the property transaction.

Mr. Duch states yes to all and states that the documents were received by the Attorney who was represented the seller of the premises.

Mr. Soukas is satisfied with all answers.

Discussion.....

Mr. Duch asks the architect, Mr. Boos to explain to the Board what exactly the applicant is looking to do.

Mr. Boos explains the addition would be over a first floor area that protrudes into the area of the backyard.....

Mr. Boos continues.....

No sideyard encroachments.  
No building footprint increases.  
No impervious area increases.  
FAR increase kept down to .09 below the required.  
No change to the front yard structure.

Ms. Spindel questions the shed/garage?  
Mr. Boos answers all concerns.

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. Seeing none,  
Mr. Newman closes this portion.

Mr. Karas makes 1<sup>st</sup>. motion to approve the application.  
Mr. Diner seconds the motion.

VOTE: Mr.Diner, Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Sacchinelli, Mr. Meer  
& Mr.Newman. YES.

**Application Approved.**

**RECESS:** 5 minutes

**ROLL CALL:** Mr. Diner, Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Sacchinelli,  
Mr. Blecher, Ms. Taylor Mr. Meer & Mr. Newman,

**Commercial Business:**

1. Application #2009-025, David Neidani  
7-02 Harrison Drive, Block 5522, Lot 17, Zone R-1-3  
Proposed change of use in an existing one family dwelling. Proposed change to  
Commercial use on the first floor with resident on the second floor. Requires a  
D-1 Use variance as per Section 125-57.D.(d)(1)

Mr. Jeffery Kantowitz (Attorney for the Applicant steps forward) opens briefly to reintroduce the application. It is a use variance to enable the construction of a mixed use building consisting of some retail space on the first story and two apartments on the second story located at the corner of Harrison Drive & River Rd.

Mr. Kantowitz explains that it is a piece of property that sits at the corner that is marked on the zoning map as a R-1-3 zone but in fact, the Master Plan of this Borough incorporates and encompasses this particular lot as part of the River Road corridor zone for what became B-4, B-5 zoning.

Mr. Kantowitz continues.....

What makes it a well situated property for this type of relief is in fact, directly across River road and continuing further south on River Road, there is Commercial Property. The little mall.....

There is completely self sufficient off street parking for the uses. We meet the parking needs for this property. In fact, this property meets all the B-4, B-5 criteria.

Mr. Kantowitz points out to the Board this is bifurcated application under Section 76B We recognize that any relief granted tonight is only the first step and we will have to come back and address the Board's site plans concerns.

We are here now for a Use variance because the Law allows that without undertaking the proposition of creating full Engineering plans until we know if we will be approved.

Mr. Kantowitz brings his first witness: Mr. Ralph L. Denon (Architect)

Mr. Newman swears in: Mr. Ralph L. Denon  
15 Beekman Place, Fair Lawn, N.J.

Mr. Denon is a Licensed Architect who has been before the Board in Fair Lawn and other towns in N.J.

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

Exhibit A-1-Proposed Mixed Retail Development Proposed Plan is set up for easy viewing.

Mr. Denon describes the proposal, it is a two story mixed use building with a two dwelling for residents and a commercial space on first floor.

Frontage is about 100ft. from River Road and 66ft. from Harrison Drive.

Height would be 26ft.

Existing lot area is 6600ft.

Front yard setback is 5ft. off of Harrison and River

Side yard setback to the nearest residential property is 12ft.

Building coverage is 35.53%-it exceeds the allowance.

Mr. Denon continues.....

Off street parking would be 11 spaces.

B-4, B-5 Zone requirements are discussed.

Mr. Denon describes the proposed plan of the building. We tried to balance the site to be between Residential & Commercial.

Will have parking underneath the building. Vinyl fencing will be between the property and the Residential Zone.

Mr. Denon continues.

Mr. Newman asks Mr. Kantowitz what prevents you from coming back during the site plan stage with a completely different application? All we are doing tonight is voting tonight on a use, correct?

Mr. Kantowitz explains.....predicate for a site plan.....

Discussion.....

Mr. Newman asks if anyone within 200ft. have any questions specifically for Mr. Denon?

Mr. Newman swears in: Leonard Picinella  
7-10 Harrison Drive

Mr. Picinella questions the entrance and exits for the parking. It is now on River, and he feels its going to be a blind pull in. They have a problem there now and it is getting very congested. How many entrances and exits for the upstairs apartments?

Mr. Denon answers his concern.

Mr. Newman swears in: Mr. Dimitris Stratus  
10-04 River Road

Mr. Stratus refers to Drawing A-1. Depiction of River Road-  
Points out that it is much narrower than it is in the business corridor that is further to the North, almost to the width of two cars, and in regards to ingress and egress, this property building is going to be right on the corner.

Mr. Denon states it will meet the B-5 Zoning regulations with a 5ft. setback

Mr. Stratus continues to state it is going to be a problem for people coming off of Harrison Drive as far as the line of sight if they want to make a left or right. In your opinion, will it obstruct their view, correct?

Discussion continues.....

Traffic is discussed.  
Ingress and Egress is discussed.

Mr. Newman states that Mr. Stratus concerns are more of a site plan issue and once you move on to traffic patterns, you are beyond what the architect can answer...If you want to ask about the structure itself, that's fine.

Mr. Stratus continues his questions directed to Mr. Denon regarding the apartments proposed.

Parking spaces allowed per family is discussed.....

Mr. Stratus voices other concerns.

Discussion continues....

No further questions from Mr. Stratus.

Mr. Newman swears in: Joan Beday  
7-03 Harrison Drive

Ms. Beday asks if the architect is aware that Ordinance #1788-2000 which changed the River Road Business District?

She reads from the Ordinance....regarding some inconsistencies in the B-4 & B-5 districts....

Continues.....

Ms. Beday states it was zoned Business and you changed it, right after the River Road Improvement, when questioned, I was told we would like to keep it Residential.

Discussion continues....

Mr. Kantowitz states it doesn't change anything about what we said....what we said was that we recognize the Borough and its zoning map. Recognize the property as a Residential Zone. We have not challenged that the property immediately across Harrison is an R-property. We are two properties away from the B-zone.....

Discussion continues.....

Ordinance was introduced February 8, adopted March 7, and reintroduced April 4<sup>th</sup>, 2000

Mr. Newman swears in: Edward Feldman  
7-09 Park Avenue

Mr. Feldman explains that the County of Bergen was going to condemn the property and was planning to make River Road wider, north towards Berdan and South towards Morlot Ave....why the County never did this, I don't know, but it will be a bad traffic area.

Mr. Newman stops Mr. Feldman. He explains he only wants questions that are specific to the architecture that are directed to Mr. Denon.

Mr. Newman swears in: Ms. Vicky Alberta  
7-07 Harrison Drive.

Ms. Alberta voices her concerns and asks why it has to be so close to the corner. It cuts off the view all the way up the South side of Harrison Drive, it has taken the Residential feel away with the size of this structure. Why is this structure being brought all the way up in a residential area and obstructing views?

Mr. Denon explains it is 5ft. from the property line and not the curb.

Discussion continues....

Mr. Denon states he will discuss with the owner and see if there are other designs they could come up with.

Mr. Newman swears in: Stuart Bernath.  
7-17 Park Ave

Mr. Bernath questions the Counsel on the Applicant's Design of the brick facing. That doesn't mean it is Residential.

Mr. Kantowitz asks Mr. Denon to elaborate....

Mr. Denon explains....

Mr. Bernath refers to the Liquer Store.....The two properties do have the same look and do look similar, only reinforcing the Commercial feel.

Mr. Kantowitz tries to answer his concerns.

Discussion continues.....

Mr. Newman asks Mr. Rivellini (Attorney for Garden State Orthopaedic Application #2009-033 to please approach the podium.

Mr. Newman asks Mr. Rivellini if he would like to reschedule due to the late hour.

Mr. Rivellini discusses dates to reschedule.

It is agreed by the applicant to carry the application to October 19, 2009

**Application #2009-033 Garden State Orthopaedic, LLC  
carried to October 19, 2009**

Mr. Kantowitz continues addressing the concerns of the residents in regards to design of the structure.

Mr. Newman asks if there is anyone within 200ft. who has any questions for Mr. Denon. Seeing none,

Mr. Newman closes this portion.

Mr. Newman asks if there is anyone from the general public who would like to ask any questions of Mr. Denon. Seeing none,

Mr. Newman closes this portion.

Landscaping issues are mentioned. Preservation of the mature trees.

Mr. Newman swears in the Board Professionals:

Mark Kataryniak  
Paul Azzollina  
Peter Van Den Kooy

Mr. Kataryniak, Traffic Engineer for the Board questions the vertical clearance you will need in the garage for handicapp accessible & do you have adequate vertical clearance and structural depth so that it does not affect your proposed height of the building.

Mr. Denon replies yes.

Mr. Paul Azzollina, Board Engineer for the Board notes that the survey is quite old and he recommended to Mr. Kantowitz that they touch base with the County of Bergen because they will have a large say so in the matter of how this property will ultimately be developed because it is a County Road.

Mr. Kantowitz states he has not contacted the County yet. He wanted to see where they were going with the use variance.

Mr. Newman and Mr. Paul Azzollina discuss the subject.

Mr. Newman swears in Art Bernard, (Planner) Licensed in N.J. for 32 years.

Mr. Newman accepts him as an expert witness.

Mr. Bernard explains that he has reviewed the 1992 Master Plan and the subsequent re-examination reports done in 1998, 2004, & 2006. I reviewed the Land Development Ordinance and the applicants plan for the property and the Municipal Land Use Law. I've been out to the property several times..

Mr. Bernard continues.....

Relief is necessary. Use variance is required. C-variances are needed for the front yard setback and so forth.....

Explains the B-zone/Residential mixed use area...  
District 3 Commercial zone

Mr. Bernard speaks to the Master Plan and the balance of a variety of residential and commercial uses.

This is a mixed use development in the River Road corridor and is consistent with the River Road Master Plan to provide mixed uses in this area and is consistent with the Master plan recommendation to provide a mix of housing types.

State Plan is discussed....

Mr. Bernard feels this site is a particularity suited for this mixed use development.

Mr. Bernard continues....Promotes the objectives of the State Plan promotes several purposes of the MLUL. To encourage the appropriate use of Land and to provide sufficient space in appropriate locations for a variety of uses.

Mr. Bernard continues with the positive criteria.

Mr. Bernard discusses negative criteria. He finds no substantial detriment to the zone plan. Although it is not in the B-5 zone, it is right across the street from the B-5 and can be developed in accordance with the B-5 standards....

Mr. Bernard continues...

He finds no detriment to the public good. Helps make transition between Residential and Commercial uses in the area. The site has adequate parking....

Public benefit.....

Good Use of the property.

Promotes the MLUL, the State Plan, etc.....

Mr. Newman asks Mr. Bernard if he could clarify the statement that the site is included in the Commercial 3 district by River Road. Where does that begin and end?

Mr. Bernard explains.....

Mr. Newman & Mr. Bernard continue the discussion.....

Master Plan is discussed along with the suitability & the business corridor.

Mr. Bernard refers to the existing Land Use Map- It is marked as A-2 and passed amongst the Board members.

Discussion continues on site suitability.....

Mr. Newman asks, at what point are we taking the Commercial District, and rezoning this within the Residential zone. This Board does not have the authority to rezone and to undo what the Counsel has adopted Ordinance to make sure what is not done and to say that the River Road District has not really come far enough and should go there? One more lot here or there.....how far do we go?

Mr. Karas refers to the Borough's Zoning Map and it shows the B-4 District-and it ends at Berdan Ave, does it not? The B-5 district ends in the middle and that would be the West side of River Road and ends between Harrison & Park.

Mr. Karas explains the reasoning behind the B-4 & B-5 Zone. B-5 includes three stories, where B-4 is limited to two stories.

Photographs are discussed....the histories of the businesses are discussed.

Mr. Karas and Mr. Bernard discuss the Zoning Map of 2000.

Discussion continues where Commercial ends and Residential begins.

Mr. Kantowitz clarifies that Lot 23 of the map lies north of Harrison Drive Lot 17, which is the subject property, lies South of Harrison Drive. The mapping in the River Road Master Plan document that sits immediately after pg. 12 shows the line drawn, South of Harrison Drive...If you were to super impose the match line of the Master Plan Document on Mr. Bernard's Land Use Plan, it would run somewhere across Lot 17, south of Harrison...

Discussion continues.....

Commercial 3 District is again discussed.

Mr. Newman apologizes to the Public and explains that because of the late hour, we think it would be in everyone's best interest to carry this application until the next meeting in which it would be opened first and you will all have an opportunity to ask questions.

Dates are discussed.

Mr. Newman speaks to Mr. Kataryniak(Board Traffic Engineer)" I feel like there is a need for Traffic testimony here for the Board to decide use, do you have an opinion on this?"

Mr. Kataryniak does agree that some traffic testimony is warranted, given the overall traffic conditions on River Road, the factors with the County. It is important to address Traffic as a potential issue in weighing the positive and negative criteria on this application.

Mr. Newman discusses this with Mr. Kantowitz and suggests that he also follow up with the County as per Mr. Azzolina's suggestions.

It is agreed that the application will be carried to November 16, 2009. With no further Public Notice required. Letter of Extension will be sent.

**Application carried to November 16, 2009.**

Mr. Newman makes announcement that there was a letter from a Mr. Jeffery Lichman, Application 2009-038, 12-19 Roosevelt Place, for a pool variance to be carried to the October 19, 2009 Meeting.

Application 2007-075, Mr. Paul & Mrs. Kerry Surlak also requesting a second extension of the variance granted due to financial circumstances.

Mr. Charipper makes a motion to approve the extension.

Mr. Blecher seconds the motion.

VOTE: All Present- AYE

**Minutes:**

Mr. Diner made a motion to approve the minutes for the July 20, 2009 meeting and Mr. Charipper seconded the motion.

VOTE: All Present – AYE

**Vouchers & Estimates:**

1. William Soukas in the amount of \$833.33
2. William Soukas in the amount of \$90.00
3. William Soukas in the amount of \$4,299.31- Omnipoint Litigation
4. William Soukas in the amount of \$771.71
5. Karen Koscis in the amount of \$275.00
6. Karen Koscis in the amount of \$150.00

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

VOTE: All Present – AYE.

**Resolutions:**

1. Application #2009-027, Brian & Heather Blecher, 38-54 Van Riper Place, Block 2505, Lot 88, Zone R-1-2– Front Porch- Approved.
2. Application #2009-028 Matthew Krinsky & Aviva Diamond, 17-08 Greenwood Drive, Block 3816, Lot 21, Zone R-1-2– Addition- Approved.
3. Application #2009-029, Robert Robles, 12-02 Sumner Place, Block 3603, Lot 15, Zone R-1-2– Front Platform- Approved.
4. Application #2009-030, Jacob Hoshia, 23-17 Morlot Avenue Block 3521, Lot 19, Zone R-1-3– Fence- Approved.

5. Application #2009-031, Andrey Shapovalov & Olga Golod, 7 Addison Place, Block 3724, Lot 10, Zone R-1-3– Addition- Approved.
6. Application #2009-032, Mr. & Mrs. Larry Steinberg, 31-08 Heywood Avenue, Block 2803, Lot 8, Zone R-1-2– Expansion- Approved.

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

VOTE: All Present – AYE.

**By-Laws:** To be amended.

Mr. Karas made a motion to amend the By-Laws and Mr. Diner seconded the motion.

VOTE: All Present - AYE

**Adjourn:**

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

TIME: 11:50 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza  
Zoning Board Clerk