

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Of October 19, 2009**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's regular meeting held on October 19, 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. Sacchinelli, Ms. Taylor
Mr. Meer & Mr. Newman.

Absent: Mr. Karas, Mr. Charipper, Mr. Salerno & Mr. Blecker.

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

Residential Business Carried:

1. Application #2009-039, Jeffery Lichtman,
12-19 Roosevelt Place, Block 4606, Lot 75, Zone R-1-3
Proposed above ground pool would increase the impervious coverage from 35.75% to 40.14% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is proof of service.
Mr. Newman swears in Mr. Lichtman,

Mr. Newman asks Mr. Lichtman what brings him here tonight.

Mr. Lichtman explains he would like to put an above ground pool and explains he has a small lot and that is the reason behind his increase of the impervious coverage. He cannot remove anything to help reduce the increase because he only has the garage and the driveway. There is nothing else on the lot.

Mr. Newman questions the lot coverage.

Ms. Spindel brings up the fact that they are not able to count the driveway as impervious coverage.

Discussion.

Mr. Newman explains to Mr. Lichtman that when impervious coverage is calculated on your lot and because it is an undersized lot, there is an ordinance that does not count your driveway after the front of the house all the way back to the garage. The relief is already built in.

Mr. Lichtman states this is the smallest pool he could find.

Ms. Spindel questions if a stipulation can be added, that upon the sale of the home, the pool will have to be removed.

Discussion.....

Mr. Newman states that because it is a temporary structure and only has a limited life span, he doesn't feel it really is necessary.

Discussion....

Ms. Spindel questions the fact that if the pool does deteriorate after so many years and he or someone else wants to put in a new above ground pool, do they have to come in for a permit or does this follow the property?

Ms. Peck answers that the variance does stay with the property but it would have to be for the same size pool.

Discussion.....

Mr. Newman opens the applicant 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 1st. motion to approve this application.
Mr. Diner seconds the motion.

VOTE: Mr. Diner, Ms. Spindel, Mr. Frankel, Mr. Sacchinelli, Ms. Taylor,
Mr. Meer & Mr. Newman, **YES**

Application Approved.

Residential New Business:

1. Application#2009-040, Mr. Chan & Brenda Vu
2-24 29th Street, Block 3308, Lot 9, Zone R-1-3
The proposed new patio, shed & walkway will increase the impervious coverage
From 37.33% to 49.93% where 35% is permitted as per Section 125-12 Schedule
of area yard and building requirements.

Fees have been paid and there is proof of service.

Mr. Newman swears in Mr. Chan Vu.

Mr. Newman asks Mr. Vu to explain why he is here tonight.

Mr. Vu explains he would like to get approval for the patio & walkway & shed that he had put down.

Mr. Newman asks if this is work that was already completed and you weren't aware of the permits that were needed?

Mr. Vu explains he had a permit for the shed, but only replaced the existing walkway and patio and didn't realize he needed a permit for that.

Mr. Newman states that he obviously put in a lot more than what existed.

Mr. Vu agreed.

Mr. Newman explains when a situation like this occurs, this board should be neither Punitive nor feel bad for the applicant who may have to remove things based on the decision. We will look at the situation as if the work has not been done. That is the fairest way for us to go about it for the applicant.

Pictures are reviewed by the Board.

Mr. Newman clarifies what they are looking at.

Mr. Newman questions a retaining wall that is in the picture and asks if that was there previously.

Mr. Vu states that is part of the driveway that was done a couple of years ago.

Ms. Taylor asks why there no stairs put in with the retaining wall? There is a path right above the wall, where the retaining wall ends.

Discussion....

Ms. Peck states that the driveway permit doesn't mention a retaining wall, but I will certainly ask the Construction Official if steps and railing would be required depending on the height of the wall.

Discussion continues.

Mr. Vu states that the path is calculated to be around 5ft. wide...

Discussion on the calculations if path were taken down to 3ft...

Mr. Newman explains to Mr. Vu that they would suggest that he carry his application to another meeting so that the Construction Official can visit his property and determine whether or not there are issues regarding a stairway up from the retaining wall and if railings would be a requirement and whether or not any of the other pathways are against code.

Mr. Vu agrees to grant the Board an extension and carry the meeting.

Application carried to November 16, 2009

2. Application#2009-041, Tony Christofi
5-02 Berdan Ave, Block 5508, Lot 74, Zone R-1-3
Proposed 54"(4'6") fence in the front yard setback where only 3' in the 25'
Front yard setback is permitted as per Section 125-12 Schedule of area yard
and building requirements.

Mr. Newman swears in Mr. Tony Christofi (Applicant)

Fees have been paid and there is proof of service.

Mr. Newman asks Mr. Christofi what brings him here.

Mr. Christofi explains he would like to install a 54" fence on his property. He lives on a corner avenue and he fronts on Berdan and the side yard is 5th.

Discussion.

Mr. Christofi states that the fence would be a decorative aluminum fence and it would be the same on the front of the driveway, the rear of the property and the side by the neighbor's garage would be a black chain link fence that would be 48" and the aluminum fence would be 54".

Discussion....

Fence would be between the bushes and the trees on the rear of the yard.

For the record, portion of the fence that faces his frontage of Berdan is all the way to the rear of the house.

Discussion continues.

Mr. Newman questions line of sight at the intersection.

Mr. Christofi says no and feels it fits into the character of the neighborhood.

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.

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

VOTE: Mr. Diner, Ms. Spindel, Mr. Frankel, Mr. Sacchinelli, Ms. Taylor,
Mr. Meer & Mr. Newman. **YES.**

Application Approved.

3. Application#2009-042, Teresa M. Coffield
32-09 Heywood Avenue, Block 2807, Lot 5, Zone R-1-2
Proposed replacement of existing 5' fence in the front yard setback where 3' is permitted with a 25' setback where 30' front yard setback is required as per Section 125-12 Schedule of area yard and building requirements. Existing fence has no prior approval as per Section 125-38.B.(5)

Mr. Newman swears in Ms. Teresa Coffield.

Fees have been paid and there is proof of service.

Mr. Newman asks Ms. Coffield to please tell us why you are here tonight.

Ms. Coffield explains that she would like to replace her 20year old fence. She has lived in The house for 6years and she is proposing to replace the old wood fence with a white vinyl with 5ft. scalloped fence. She is on a corner and the setback requirement is 30ft. and the current setback is 25ft.

Mr. Newman clarifies with Ms. Peck the Ordinance.

Ms. Coffield states she is replacing line for line, no changes....

Mr. Newman questions Ms. Coffield on the irregular lot shape.

Discussion on the relief needed. She needs relief for less than 20ft. of fence for the rear portion of the side yard that fronts on Hunter and approximately 23ft. at the top of the driveway that fronts Heywood.

No questions from the Board.

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 no one,
Mr. Newman closes this portion.

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

VOTE: Mr. Diner, Ms. Spindel, Mr. Frankel, Mr. Sacchinelli, Ms. Taylor,
Mr. Meer & Mr. Newman. **YES.**

Application Approved.

RECESS: 5minutes

**Roll Call: Mr. Diner, Mr. Frankel, Ms. Spindel, Mr. Sachinelli, Ms. Taylor,
Mr. Meer & Mr. Newman.**

Commercial New Business Carried:

1. Application#2009-033, Garden State Orthopaedic Associates, P.A.
28-04 Broadway, Block 3207.01, Lot 1, Zone B-2
Proposed 2nd story addition to existing Medical Building. Height of 29.01' where
26' is permitted. Requires a D-6 variance, sign variance and parking variance.

Mr. Frank Rivellini (Attorney for Applicant) explains that this is a very straightforward simple application before you. It is a one level building, a square box that is dated in its present condition. There has been for a number of years, medical offices within.....
Explains the types of Medical Offices.....

1. Orthopaedic Office
2. Surgical Office
3. Physical Therapy
4. Another office is a dentist & the other is a foot doctor.

Description is continued.....

We would like to move the office workers to the first level and add one more surgical operatory to the existing space. Adding this would add 5-6 more people a day coming to the office a day.

Mr. Rivellini mentions in 1999 he had an application before the Planning Board and the copy of the Resolution has been submitted to you. We got an approval at the time to add a second surgical operatory & an MRI facility. He testified there would have been 10-13 more persons a day coming. The 1999 approval was never built. The second surgical was never done....

Gives more history.....

Ms. Peck states for the record, that if they do not run with the construction portion of it, it expires after 1 year.

Mr. Rivellini explains the new proposal to put in drainage and we would comply with the Board's Engineers comments on whatever he suggests. We will repave the parking lot.

A parking variance is needed.

Mr. Newman swears in Mr. Alex Rothchild,
480 Kendrick Street
Paramus, N.J.

Mr. Rothchild is the Property Administrator for Garden State Orthopaedics., Surgical & Physical Therapy.

Mr. Rothchild explains they are going to put in a second operating room. The State has approved this. One of the issues that is existing is we have a basement/celler, we have employees from Garden State Orthopaedic, the second operating room changes the requirements for the Surgical Center.

Explains this....Must be two complete separate entities that do not have a common entranceway.

Parking is discussed....

Mr. Rothchild testifies it is never completely full. It is never used to capacity even at the highest point of volume.

The practice has been here for more than 20years. X-rays are done in house. The benefits outweigh any negative. If people would have to go to the local hospitals, there is a much longer wait to be seen, here...we don't want our patients to wait, we want them taken care of so this is why we are adding a second surgical unit.

Amount of additional employees with the new site would be 3-4 new employees.

1-Operating Surgeon

1-Nurse

1-Scrub Technician

1-Anesthiologist

1-patient per session every 2-1/2 hrs. Total of 6-7 over the day.

Typically the patient gets driven to the location, some choose to wait for the patient, other's choose to come back and pick up the patient.

Mr. Newman questions how many cases per day per room.

Discussion.....

Mr. Newman wants clarification on how many new employees would have to be hired for this new surgical room.

Mr. Rothchild states the existing Surgeons would be on site and the only new hire would be an anesthologist, a scrub tech and nurse.

Discussion continues.....

Pain management is done on the premises.

Parking is again discussed. 6-8 spaces are being used by a Construction Company to park their trucks.

Mr. Rivellini again states that he will have the trucks on site removed if need be.

Delivery trucks are discussed.

Deliveries would stay the same.

Medical Waste is discussed.

Mr. Rivellini testifies that medical waste is picked up every 6-8 weeks, instead there may be a minimal change to every 4 weeks or so.

Mr. Rivellini explains that they would use the basement for storing files.

No other questions from Board Members.

Mr. Newman swears in the Board Professionals:

Mr. Paul Azzolina, Board Engineer.
Mr. Mark Kataryniak, Traffic Consultant
Mr. Peter Van Den Kooy, Board Planner

Mr. Newman opens 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. Rivellini calls his second witness:

Mr. Newman swears in: Mr. Lawrence Guthartz
0-51 27th street
Fair Lawn, N.J.

Mr. Guthartz is a registered architect in the State of New Jersey, licensed for 22 years and has testified before this Board around twenty times and other Boards approximately around eight.

Mr. Newman has accepted Mr. Guthartz as an expert witness.

Mr. Guthartz explains to the Board the proposal. The current building is outdated and it needs to be improved.

Explains the best solution to this is to add a second story addition.....

Board Exhibits:

A1- Site plan marked 7-8-2009, last revised 9-21-09-Front & Rear Elevation-

A2- Second floor plans and side elevations dated 7-8-09, last revised 9-21-09-

A3- First floor plan- dated 7-8-09, last revised 9-21-09-

A4- Site Plan of parking-dated 7-8-09, last revised 9-21-09-

A5-Drainage plan-

A6- Light Plan-

A7- Cellar Plan-

A8-Plot Plan-showing location of building-

Mr. Guthartz continues with his depiction of the proposals.....speaks to drainage solutions in the parking lot, etc....

We are looking for a height variance....speaks to the reasoning behind this.
Front yard-because we have 3 front yards.
Parking would be provided -78-spaces.

Testimony continues.....

Garden State Ortho & Garden State Surgery is separate and must remain separate because it is a State requirement.

Signage is discussed. A sign variance is needed.
Six signs in total.

Discussion....

Mr. Guthartz explains that a variance is required because of the height of the signs.
The height proposed is 3'6"-requirement is 24".

Discussion....

Canopies are discussed...Mr. Guthartz explains the reasoning behind all three canopies being proposed. Would like to add canopies to all three entrances because of balance....

Board members agree with the idea of the canopy for all three separate entities, but are concerned with the 36' signs....may look like a retail strip...

Discussion continues.

Handicap spaces, Employee parking, Entrance & Exits arrows are discussed.
Light boxes are discussed.

Ms. Peck wants to clarify for zoning purposes that all 6 signs proposed will be 42" light boxes, 10inches of lettering for each row which is 20inches of lettering as opposed to 16inches.

Mr. Newman questions Mr. Gutharz regarding the light boxes....42inches X 6 is a lot. Is this really needed architecturally?

Mr. Guthartz understands where Mr. Newman is going with this and is willing to reduce the signs.....

Mr. Newman questions the backlit light boxes and is there something else that would be more architecturally more appealing?

Discussion.... there are signs made without the backlights...they are flush to the building itself.....

Mr. Newman wants to backtrack a little to the original proposal, which was 42inches where 24inches is permitted & 24inches of lettering where 16" is permitted. These are backlit boxes. Speaking for myself at the moment but also other Board members who are thinking along the same line as I am, that backlit light boxes are not exactly something that would add to the character of the area. Signs this big as well would be a negative impact visually.....

Discussion into what other options there are.....

Mr. Guthartz offers to amend lettering to 10inches per letter X 2 rows =20inches of letterings and a non backlit flat sign with gooseneck lightening. Sign height would be 28".

Sidewalk material is addressed.
No plan as of yet.

Canopies would be 15ft. in length.

Mr. Azzolina (Board Engineer) refers to the comments that were presented with his report dated August 17, 2009, subsequent to that date the applicant's architect had revised the drawings dated 9/21/09. The plans have addressed the majority of the comments that I had set forth regarding the drainage facility, the parking lot being repaved and reconstructed. My recommendation had been to totally reconstruct the parking lot given the damage that was noted.....

Drainage is reviewed by Mr. Azzolina.

Mr. Azzolina states that Mr. Gurtharz has provided a set of calculations which indicate that the system has been designed for the 25yr storm. He has not had the opportunity to review it in depth but he will do so following this meeting and as long as the applicant agrees to revise the system in any way recommended by my office.

Utilities are discussed.....

Curbing is discussed.

Mr. Azzolina has visited the site several times and did not note curbing. He noted curb stops throughout the parking lot and a retaining wall that bounds a portion of the site.

Discussion.....

Mr. Guthartz states curbing will not be a problem. He will put the curbing in.

Dumpsters for waste are discussed.
Landscaping is discussed....

Trees will be planted along the sidewalk area in the front of the building...

Mr. Azzolina feels the DOT may not permit the trees along the Broadway right of way in the front of the building, and he would defer that to the Traffic Engineer for his comments based on safety issues...

Mr. Azzolina has no further comments.

Mr. Mark Kataryniak(Board Traffic Engineer)speaks to the trees and any planting in the State highway along Route 4 would be subject to an occupancy permit by the DOT, so in addition to the permit submission to Bergen County, you will have to apply for the occupancy permit also. That holds true to any other proposed construction within the highway right-of –way.

Mr. Guthartz acknowledges this information.

Mr. Kataryniak comments on his report submitted August 13, 2009, subsequent to that the applicant had revised the plans that had addressed several of the comments, there were a few that relied on testimony before I could comment further...most relate to the revised parking requirement table, the required parking went from 102 to 133...

Mr. Guthartz explains this....

Mr. Kataryniak comments that he still has concerns about the overall parking circulation and configuration. Since you have a surplus of spaces, he was looking to support the removal of additional spaces, just to improve the circulation....

Discussion on improving.....

Pedestrian walkway is discussed.

Mr. Kataryniak suggests separating the pedestrian from the vehicular, and he would suggest losing a couple of the spaces in favor of angling the spaces 80degrees.....it would

clean that area up and it would better facilitate backing out and movement of the cars and circulation...

Mr. Rivellini states they would do that, no problem.

Discussion continues.

Reconstruction of the apron is agreed to.

Other changes are agreed to.

Mr. Newman asks for a summary of the recommendations.

Mr. Kataryniak states for the record:

Parking variance would be for 147 parking spaces required. The proposed is 78. Angle spaces would yield 74 parking spaces with the change in the rear of the building to one way isle.

I recommend that the applicant revised the parking along the one way aisle to angled parking.

Provide Do Not Enter Signs and striping between the one way aisle and the two-way aisle.

Reconstruct the two driveway aprons on 28th street to align with the drive aisles internal to the parking lot.

Final site plan, when revised has all the appropriate dimensions provided on the plan for enforcement purposes.

Applicant's attorney and Architect agree to this recommendation.

Mr. Peter Van Den Kooy (Board Planner) wanted clarification on the amount of handicap spaces which were four(4)..

Discussion.

Mr. Newman wants information on the operating procedure of Emergency Vehicle access. Transporting patients out of the building via EMS...?

Mr. Rothchild steps back to the podium to answer the question and testifies that when it has occurred, they (EMS) basically just pulled up to the building, but it is a very rare, exceptional circumstance when it does happen.

Mr. Newman feels that it is a very important aspect of the business to have a very clear standard operating procedure to allow the evacuation of a patient who needs to transport to the Emergency room.

Mr. Rothchild states that if there would be an emergency, it would be done on site with the staff and then if needed, EMS would pull up in the corridors, the patient would be moved in and out.

Discussion....

Emergency Striping is discussed for the EMS...

Mr. Kataryniak states there is parking permitted on Route 4 at this section within this block, there is a striped shoulder area on Route 4...in conjunction with the landscaping, I think it would be advisable to identify an Emergency space along Route 4 that would be subject to DOT approval that would require an ordinance that would establish a NO Stopping or Standing, Emergency Parking only space in front of the building and it would be appropriate to have one parking space at the entrance for this purpose....

Discussion continues.

Mr. Kataryniak explains anytime there is regulatory signage to prohibit parking, it would require Ordinance action to establish that parking.

Mr. Newman confers with the Borough Attorney....

Ms. Peck states we would have to bring it to the attention of Timothy Franco, Traffic Safely Officer for the Borough and see if you can get approval.

Mr. Newman speaks to the applicant's attorney and asks that they stipulate as part of any approval that you go through the proper channels....

Mr. Rivellini agrees to this stipulation.

Mr. Newman would like the recommendations in writing from the Board Traffic Engineer.

Mr. Newman opens Mr. Guthartz to residents within a 200ft for questions or comments. Seeing none,
Mr. Newman closes this portion.

Mr. Newman opens Mr. Guthartz to the General Public, seeing none,

Mr. Newman closes this portion.

Mr. Newman swears in: Mr. Scott Levy, of Scott Alan Design (Landscape Architect Planners) with offices at 16 Main Street, Hamburg, N.J.

Mr. Levy is a Licensed Landscaped Architect and Professional Planner in the State of New Jersey.

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

Mr. Levy answers Ms. Spindel's concerns on the types of trees, longevity, location, etc....

It does depend on the species that are planted for longevity that are used in the urban setting, and this is labeled as an urban setting and this planting will be 5ftx5ft that is not unlike New York City....Explains.

There would be no adverse effect on the species of this type.

Discussion on maintenance of the trees.....grates that get clogged with roots, etc.

Mr. Levy testifies that they will look at the final design and that is a possibility other than leaving them open, it depends on the medium that they are planted on...different ways that can be worked out that allow the drainage and the root system to live a healthy life in an environment like this.

Discussion continues.....

Mr. Levy addresses the Zoning Board why a D-6 variance is needed. It permits a height of principal structure to exceed 10ft. or 10% maximum of the height permitted in the zoning.

This height is being created because of the structural architectural requirements of the building. Any detriment is non-existent because we are taking the employees from below and bringing them above. This site and principal structure would accommodate the existing height on this....

Testimony continues....

Impervious coverage is going to be improved as far as drainage is concerned. We are creating the Storm Water Management System and maintaining that drainage within the property, so that would be improved.

Setback Issues are pre-existing. We are improving one side by 10inches. The corridor setbacks have been established throughout the years. We are creating an estectic quality to the corridor with the new height. What we have done here architecturally and planning is what is being sought after by the BIC. (Broadway Improvement Corporation)..

Mr. Levy continues....

Positive Criteria....The application also meets several purposes of the Municipal Land Use Law.

Explains....

1. Maintaining needed services for the community and citizens throughout Bergen County.
2. Design also incorporates Storm Water Management.
3. Structure does not impede against air or light or sound.
4. It promotes a desirable visual environment, taking an outdated design and creating a more modern design to it.
5. New lightening, new driveway.
6. New Signage.
7. New Canopies would help enhance the character of the streetscape along Broadway.

Continues....

Mr. Levy testifies there is no negative criterion to the Public Good. It would not have any negative impact to the surrounding area nor the Borough itself.

It would not impair the Master Plan or the MLUL.

It promotes the State Plan what is termed the PA-1 area-the revitalization of cities and towns.

Promoting growth and stabilizing the suburbs.

Protecting the character of the community and enhancing the community.

Discusses how they are working within the Master Plan.

Mr. Levy discusses the lightening at the location and how they would be improving it.

Mr. Guthartz speaks to this also.

Two species of trees are discussed in relation to location.

Mr. Levy states there would be one species along Broadway and another along 28 & 29th.

Mr. Sacchinelli asks if this proposal was brought to the attention of the Broadway Improvement Corporation.

Mr. Levy states yes, they have spoken to the Corporation and everything is also what they are also looking for along the Broadway corridor.

Mr. Newman questions the report from Mr. Lotterman, Recycling Coordinator recommending a minimum of 3 Dumpsters. One being for garbage, paper & co-mingle.

Mr. Levy states there is one dumpster and he was under the impression that one dumpster would be maintained. Medical is handled by a separate entity and cannot be commingled.

Discussion continues.....

Mr. Newman wants to know if there we could do all three(3) as recommended.

Mr. Guthartz replies that he could put three(3) in the same area with smaller dumpsters accommodating cans & bottles & the size of the dumpster for paper will be taken into Consideration and reviewed.

Mr. Azzolina (Board Engineer) has one more question for Mr. Guthartz regarding the lightening. We had requested a point by point analysis that would demonstrate there would be no spill light on to the adjoining properties and he would recommend that if the Board were to act favorably on this application that this would be submitted as part of and after the fact submittal.

Applicant's Attorney and all agree.

Mr. Newman opens Mr. Levy to residents within 200ft. seeing no one,
Mr. Levy closes this portion.

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

Mr. Rivillina summarizes. He agrees to all suggestions from Board Professionals and the willingness to comply with all of them.

Mr. Newman reviews all:

1. Sign variances have been reduced down to a 28inch height where 24inch is permitted.
2. Total of 20inches of lettering-two (2) rows of 10 where 16inches is permitted x6 signs.
3. Parking variance from an interpretation of 133 spaces where an interpretation of 143 is required.
4. Decreased a proposed number of spaces from 78 to 74 spaces based on our Traffic Engineer's suggestions to improve the circulation on the site subject to review.
5. Curbing, angled parking, striping, adjustments to aprons.
6. The signs also would not be backlit, they would be gooseneck lit.
7. D-6 variance-height where 26ft. permitted is going to 29 1/2 ft.
8. Canopies to be 15ft. where 8ft. from the building is required.

9. Emergency spaces to be followed up and reviewed by necessary parties.
10. Additional Dumpsters to be placed as recommended by report submitted by the Recycling/Sanitation Coordinator, Mr. Ron Lotterman.

Ms. Spindel makes 1st motion to approve the application with a corrected height of 29.89ft. in the D-6 variance.

Mr. Diner seconds the approval.

VOTE: Mr. Diner, Ms. Spindel, Mr. Frankel, Mr. Sacchinelli, Ms. Taylor, Mr. Meer & Mr. Newman, **YES.**

Application Approved.

Mr. Newman moves skips to Board Business while awaiting the Full Board to return to their seats.

Estimates/Vouchers:

1. Estimate submitted by Birdsall Engineering in the amount of \$2,700 regarding David Neidani
2. Estimate submitted by Birdsall Engineering in the amount of \$1,500 regarding Garden State Orthopaedic Associates.
3. Azzolina & Feury in the amount of \$1, 890.00 for Garden State Orthopaedic Associates.
4. Birdsall Engineering in the amount of \$412.50 for David Neidani
5. Birdsall Engineering in the amount of \$2, 651.25 for Garden State Orthopaedic Associates.

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

VOTE: All Present – **AYE.**

Mr. Newman reopens:

2. Application#2009-034, Mark and Gina Reyn
29-11 Fair Lawn Avenue, Block 3703, Lot 10, Zone R-1-2
A D-use variance to permit a Professional Office in the R-1-2 zone.

Mr. Stuart Liebman, (Applicant's Attorney) opens the application with the explanation that the existing use of the property is a Home Occupation for a Medical Professional. Dr. Reyn is an internist and also the sole principle of the house which is a permitted use within the zone.

Mr. Liebman continues....

We are proposing a 454sf addition at the rear portion of the property that would not be seen from the street. We are here because this is a permitted conditional use and a deviation from one of the terms under the Municipal Land Use Law under a D-type variance.

Conditional use is subject to a different standard of review than a use variance or uses otherwise not permitted in the zone, subject to certain limitations or conditions.

Mr. Liebman continues.....

The lot itself is over 4000sf larger than the requirement of the zone. With the home office addition we are less than all of the bulk requirements, significantly less in FAR & Impervious coverage, maximum building coverage, rear yard.....

What we are talking about simply is the deviation to increase the limitation of what is the 750sf maximum.

House is a relatively small house where the reception area, secretarial area, storage area are all in the same spot and the addition allows the existing rooms to become a little less confining and fit everyone a little more comfortably.

Mr. Newman swears in Dr. Mark Reyn
29-11 Fair Lawn Ave,
Fair Lawn, N.J.

Testimony begins.

Dr. Mark Reyn testifies he resides at 29-11 Fair Lawn Avenue with his wife since 1988. The medical office has been since 1990. I practiced Internal Medicine. I am affiliated with St. Mary's in Passaic.

Dr. Reyn describes the house and office area with the waiting room area, employee area for the secretaries, office staff, storage areas & examining rooms.

Pictures of the office area are marked as:

A1-1st. Photo- Secretary room

A2-2nd Photo- Filing area in the secretary room

A3-3rd Photo- Picture of Medical Assistant and one secretary in the area

A4-4th Photo-Examination room

A5-5th Photo- Main examining room.

Mr. Newman wants clarification of the number of examining rooms.

Dr. Reyn testifies he has 3 existing examination rooms.

Proposal is for a larger secretarial room and adding another examination room.

Mr. Newman asks Dr. Reyn what is the necessity of the fourth examination room.

Dr. Reyn tries to explain.

Mr. Newman continues the discussion with Dr. Reyn and understands the need for the additional space, especially the administrative space but does not understand the need for an additional examination room, especially if he is the only medical doctor on site? Time spent on patients is discussed.

Mr. Liebman interjects and explains that the architect will explain in his testimony how in fact the site is laid out and proposed.

Ms. Taylor questions the existing layout, asking why there is only a proposed site plan and not an existing layout to compare and review the changes.

Mr. Liebman explains....

Discussion continues.....

Amount of employees is again discussed....

Mr. Liebman states in his testimony that there is never more than 2 employees working at the same time.

Mr. Liebman continues his cross with Dr. Reyn.

Hours of operation are discussed.
Types of Medical Procedures are discussed.

Parking is discussed.

30-40% of patients are from Fair Lawn.

Speaks to the cramped quarters.....

Medical Waste is discussed. Dr. Reyn has a pick up every 1-2 months and no change is expected.

Blood/Lab work is picked up 2x a day. Middle and end of day and no change is expected.

Vehicle comes and picks up the lab work...

Mr. Liebman continues to cross examine Dr. Reyn on his practice.

Mr. Newman clarifies the services on site:

1. Physician Medical Care
2. Ultra Sound on site (No tech. Dr. Reyn does this)
3. Phlebotomy (Medical Assistant does this)
4. Physical Therapy (Med. Asst. & Dr. Reyn)
5. ECG (Assistant)

Discussion & clarification on this.....

The Scheduled Appointments are in 30min. blocks.

Hours: 10am-8:00pm Monday thru Friday

Mr. Newman calculates and states he is having a tough time understanding the need for an additional examining room. The proposal is for 4 examining rooms and a Consultation Room. 15-20 patients a day don't justify the need for an additional examining room...

Discussion continues.....

Mr. Frankel(Board Member) shows concern over the addition of a 4th examining room which would bring more patients, which would bring more vehicles into the already busy area of Fair Lawn Avenue. Patients would park on the street because your employees park in the driveway.

Handicap patients...how do they get to your office?

Dr. Reyn testifies states that a relative or someone brings the patient and wherever there is room, they park the car. The home is handicap accessible.

Ms. Spindel clarifies the D-variance and the proposal.....also shows concern for the 4th examining room when there is one physician on site....when there wouldn't be additional increase in patients.

Handicap issues are questioned.

Discussion.....

Site proposal is discussed and the size of the existing rooms are discussed.

Dr. Reyn completes his testimony.

Mr. Newman asks the attorney to come back with the architect and come back with the specifications for medical examining rooms.

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

Mr. Newman reminds the residents that this is a “question only” segment for Dr. Reyn.

Mr. Newman swears in: Richard A Purpose
29-03 Fair Lawn Ave,
Fair Lawn, N.J. 07410

Mr. Purpose wants to give a clear representation that he feels is truly going on...

Mr. Purpose begins his questioning of Dr. Reyn.

Questions the amount of cars that would be in the driveway and the amount of patients that would be seen during the day, where they usually park....etc....

Dr. Reyn answers.

Mr. Purpose wants to show pictures contradicting what Dr. Reyn testified to.

Mr. Newman stops the questioning and asks Mr. Purpose to please hold off until the end of the hearing to submit pictures. This is a “question only” segment.

Mr. Purpose understands and brings up the concern with the additional examining room. Asking Dr. Reyn if he feels it would bring more volume to an already congested area.

Dr. Reyn states, not necessarily....explains his patients need an additional room if they are sick so he can keep them separate from the others.

Mr. Purpose has no more questions at the moment but wishes to come back up if he wishes.

Mr. Newman swears in: Eileen Dubin

Ms. Dubin states she is the next store neighbor on the right side and she was under the impression that he had a Medical assistant and a Physical Therapist...

Dr. Reyn testifies that the gentleman she is speaking of is a Medical Assistant

Ms. Dubin then asks Dr. Reyn if he is still doing independent Medical examinations with other doctors in your office?

Dr. Reyn answers that he sometimes has a friend who does this when he is not there. Sometimes it's a favor for the patient when I'm not there.

Discussion.....

Ms. Dubin asks with this addition how can we be sure you are not renting out your space to generate additional foot traffic or traffic from other people coming when there is already a congested area and where they would park...I also have pictures as to where people park when there is no parking and that's on my property...

Dr. Reyn states that is what happens with the kind of practice I have.

Ms. Dubin states there are ambulances all day long so it's not just a family practice; it is many people that are coming that are handicap with multiple ambulate services.....?

Discussion.....

Ms. Dubin questions Dr. Reyn and asks if his practice is mostly patients from Fair Lawn why practice at a hospital that most patients would not go to, which is Passaic.?

Where do you hospitalize your patients?

Dr. Reyn answers this accordingly.

Discussion continues.....

Ms. Dubin has no more questions but clarifies that Dr. Reyn has testified that he has allowed other doctors to practice there?

Mr. Newman states he did hear that also.

Mr. Liebman interjects with "He said, a doctor.

Discussion...

Mr. Newman asks if there are any other residents within 200ft. with questions the applicant, seeing none.

Mr. Newman closes this portion.

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

Mr. Frankel (Board Member) asks if there are ambulances that come to the location & how often?

Dr. Reyn states whenever needed.

How do they get to the location if the driveway is occupied by all the employees?

Dr. Reyn states at the base of the driveway.....

Discussion continues.....

Ms. Spindel questions the legality of Dr. Reyn having other doctor's practice out of his office.

Mr. Soukas(Board Attorney) speaks to the Ordinance and Home Occupation does not have more than one principle....reads the ordinance.

Discussion.....

Mr. Newman explains to Mr. Liebman that even with a covering doctor, it is pretty clear that the Ordinance states, it is carried out only by a full-time resident of the dwelling. There is no other way to interpret that.

Mr. Newman clarifies that the addition does not use more than 50% on the first floor and it is not more than a total of 750sf?

Mr. Liebman testifies no more than 50% but more than the 750sf and that is what we are seeking the variance for.

Mr. Newman reopens Public Comment for questions from the general public for Dr. Reyn after residents state they can't & didn't hear in the back the closing of public comment.

Mr. Richard Purpose steps forward with 3 questions.

Q. 1. At the present time do you have patients come from Daycare Centers?

Dr. Reyn: Sometimes.

Q. 2. Do you have deliveries of pharmaceuticals come to the office?

Dr. Reyn: Sometimes.

Q.3. Do you have disabled patients come to the office.

Dr. Reyn: Sometimes.

Mr. Newman: I am closing this session, so anyone within 200ft. of the applicant have questions for Dr. Reyn.

Unknown resident asks Mr. Newman if it is only questions they can ask of Dr. Reyn, we cannot comment? So we will have to come back for that...I'm sorry, I misunderstood.

Mr. Newman states that is correct. We will have to wait until the next hearing and the end of that meeting we will hear comments from the Public.

Mr. Newman opens the applicant up to questions from the general public for Dr. Reyn, seeing none.

Mr. Newman closes this portion.

Mr. Newman states that we will open next time with the architect for this application.

Dates are discussed....

Mr. Newman again explains to the residents that at the next meeting they will hear from the architect and once the architect is through with his testimony, everyone will then have the opportunity to question the architect the same way they questioned Dr. Reyn. Once that is complete there is a time for Public comment where you can provide any information or say anything you like in reference to the application.

Application is carried to December 21, 2009

Mr. Newman has a couple more items of business.

Vouchers:

1. Karen Koscis in the amount of \$480.00
2. Bill Soukas in the amount of \$833.33 for October
3. Bill Soukas in the amount of \$1,125.00 for October

Mr. Diner made a motion to approve these bills and Mr. Frankel seconded the motion.

VOTE: All Present – AYE.

Resolutions:

1. Application #2007-075, Kerri & Paul Surlak, 6 Andrew Place, Block 4601, Lot 22, Zone R-1-3– Variance extension- Approved.
2. Application #2009-037, Leonid & Natalyn Krimer, 17-27 Eberlin Drive, Block 4800, Lot 14, Zone R-1-3– sideyard setback - Approved.
3. Application #2009-035, Janusz & Barbara Lach, 3-10 31st. Street, Block 2303, Lot 17, Zone R-1-3– Expansion- Approved.

Ms. Spindel made a motion to accept these resolutions and Mr. Meer seconded the motion.

VOTE: All Present – AYE.

Minutes

1. Mr. Diner made a motion to approve the minutes for the August 17, 2009, meeting and Mr. Sacchinelli seconded the motion.

VOTE: All Present - AYE

Adjourn

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

TIME: 11:00 P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk