

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

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

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

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

Absent: Mr. Blecher, Ms. Taylor

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

Residential Old Business carried:

1. Application#2009-024, Philip Mendillo
1-33 Summit Avenue, Block 4313, Lots 37-38
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 Far variance required.

Fees have been paid (Mr. Mendillo is Tax Exempt)

Mr. Newman swears in Mr. Philip Mendillo.

Mr. Mendillo begins explaining the reasoning behind his appearance tonight and why he is looking to add this extra room.

Mr. Newman explains to Mr. Mendillo, although his personal hardships are appreciated, everything that this Board decides has to be based on your application and not on personal hardships. You have been here a couple of times and at the suggestion of the Board, you were asked to come back with your architect.

Mr. Newman swears in Burt Landau,
8 Leary Ave.,
Bloomingdale, N.J.
Licensed Architect since 1972 and has testified before this Board and other Boards.

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

Mr. Landau begins his testimony. Based on the last presentation, he has prepared a new plan with all the variances required and also what was proposed for this project. He reviewed the zoning ordinance and incorporated them on the plans...

Mr. Landau gives calculations and details.....

Testimony continues.

Ms. Peck questions the Impervious Coverage that is not noted.

Discussion continues.....

Ms. Peck notes there is a decrease on the building coverage on the revised plans. It was brought down from 25, it was 26, and brought the FAR to 37% where 40% is required if there is no change to the impervious coverage, you would not need a variance at that point because of the exemption for a non conforming lot.

Discussion.....Questions from the Board members.

FAR is calculated again.....

It is determined that the basement was not calculated into the FAR in error.

Mr. Landau apologizes for the error.

Mr. Newman suggests to Mr. Landau if he can determine the correct FAR this evening, he would put the application temporarily to the side; take the next application while he takes a look at things on the side and when he comes up with the correct FAR calculations we will know whether or not you need to be here tonight.

Mr. Landau agrees.

Discussion.....

Mr. Newman proceeds with 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 as not merged under the Doctrine of Merger. Proposed new two family dwelling requires a D-variance as two family dwellings are not permitted in a 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)

Mr. Anthony Graceffo, (Attorney for the applicant)
485 Main Street, Hackensack, N.J.
Appearing on behalf of the applicant, Veronica Burke

Mr. Graceffo reviews where they are since the last hearing of September, 2009 where they presented testimony from Veronica Burke by way of her power of attorney, Patricia Gabriel. There was some constructive commentary from the Board and we elected to adjourn the application and make amendments to the plan based on the comments received.....There was more of an effort to bring this application more into conformance and requiring less relief than before....

Mr. Newman interjects and asks the Board Members who were not at the September meeting to please raise their hands. Mr. Salerno & Mr. Frankel, who were at an Open Space meeting in September, are advised that they can participate in questioning but are not allowed to vote this evening.

Mr. Graceffo continues with his testimony.....noting there were 4 non-conformities in the original application, lot area & lot width that we cannot do anything about and the second two pieces of relief that were requested were the FAR and Parking.....

Mr. Graceffo continues with what they have revised and changed....

1. Reduced the footprint of the building from 1240sf to 1000sf and that gives us an exact FAR of .4
2. Added (4X) four off street parking spaces, but that has brought us over on Impervious coverage so we will need to amend the application to include a variance for this.

In reducing the building square footage, I would like it to be noted that instead of 3BR units in each apartment as originally planned, they are now 2BR units, we think it fairly incorporates the comments made and have come in with a reasonable request.

Discussion.....

Mr. Newman asks if there were any consideration in proposing a single family dwelling, which would require less parking, therefore less impervious coverage and probably a smaller FAR, maybe even one within the ordinance.

Mr. Graceffo replies, it's possible and that it was addressed at the last meeting by the applicant through her power of Attorney, Patricia Gabriel who testified to the general character of the neighborhood being a mix of two and single family homes and being a bit of a business usage on Maple.....we feel it is in conformance with the neighborhood.

Discussion continues.....

Mr. Newman notes there are no basement plans included with the site plan...

Mr. Graceffo explains....

Issue is whether or not it should be a two family is discussed.

Mr. Karas suggests pavers for driveway to reduce the impervious coverage.

Discussion.....

Question if applicant has an alternate single family dwelling plan that they've considered?

Mr. Graceffo replies there is no physical plan, given the economics and a lot of the testimony that you have heard, this is what would be most attractive in the neighborhood and what the applicant would want.

The Board Members discuss the negative & positive criteria of the two families in the area with Mr. Graceffo.

The parking impact is discussed.

Mr. Newman suggests that based on the comments here tonight from the Board members that maybe the applicant would consider going back to the drawing board and consider coming back with a single family application.

Discussion.....

Suggestion on the use of a Planner is mentioned.

Mr. Graceffo states that they did discuss it, but he feels that Board Members have a real good sense of what is going on in their municipality. I think you can rely on your own judgement over that of an expert on an application like this. We are not talking about a major development or a big impact so I am submitting the application as presented and respectfully request the Board to consider it and we would comply with any reasonable request in reducing the impervious coverage....pavers, turf stone, etc....

Mr. Graceffo summarizes with explaining it is a new house on a block with aging houses and we feel it would be a benefit to the neighborhood and there is no detriment, we are providing more off street parking and we think it satisfies the criteria.

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

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

Mr. Charipper makes the 1st motion to deny this application. (Explains reasoning)
Ms. Spindel seconds the motion.

Mr. Newman wants to remind the Board Members that an **affirmative vote** on this application would be **voting to deny**. A **negative vote** would be to **uphold**.

VOTE: Mr. Diner, Mr. Charipper, Ms. Spindel, Mr. Sacchinelli, (Mr.Salerno& Mr. Frankel) cannot vote. Mr. Meer & Mr. Newman.

YES to deny. Mr. Karas, **NO**-to uphold

6- To Deny

1-to Approve

Application Denied.

Mr. Newman requests a 5-min Recess.

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

Mr. Newman re opens Application#2009-024, Philip Mendillo

Mr. Landau (Architect) steps forward and states after going over the calculations with Ms. Peck(Assistant Zoning Officer) we will need two variances. One is a side yard variance for 5.8ft. and the impervious coverage from 43% to 47%. The calculations for the FAR is

37% and everything was based on what is on the site plan.

Mr. Newman questions the Building coverage. It is determined that the building coverage was 20% going up to 25%.

Discussion.....

Mr. Landau reviews again all the calculations for the Board Members because he had not taken all the impervious coverage into consideration with the calculations.

Ms. Spindel questions the concrete sidewalk on the North side of the house. Is there a way we can remove any unnecessary impervious coverage with the concrete there?

Mr. Mendillo states he can eliminate the concrete walk on the left side of the house from the gate back which would reduce it by 1%.

Impervious coverage is reduced from 47% to 46%.
FAR is 37%
Building Coverage to 25%

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.

Mr. Newman swears in Mr. Joseph Mele,
15-25 11th Street

Mr. Mele comments that similar to what Mr. Karas mentioned in a previous application, maybe there is an opportunity to provide some pervious pavers in lieu of the walkways and pervious surfaces that are out there today. Secondly, just a general comment, the use of pavers are not necessarily for aesthetic reasons, they are there in order to promote ground water recharge.....

Mr. Mele continues.

Discussion amongst Mr. Karas & Mr. Mele in relation to dry wells, etc....

Mr. Newman thanks Mr. Mele for his comments and his time.

Mr. Newman opens the applicant to any other comments from the general public.
Seeing none,

Mr. Newman closes this portion.

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

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

Application Approved with conditions.

3. Application#2009-040, Chau & Brenda Vu,
2-24 29th Street, Block 3308, Lot 9, Zone R-1-3

The proposed new patio, shed and walkway will increase the impervious coverage from 37.33% to 43.93% where 35% is permitted as per Section 125-12 Schedule of area yard and building requirement.

Mr. Newman swears in Mr. Chau Vu.

Mr. Newman states that Mr. Vu's application was carried and that Mr. Salerno, Mr. Karas & Mr. Charipper cannot vote on this application due to their absence at the last hearing.

Mr. Newman speaks to Mr. Vu and explains to him that after the last meeting, the Assistant Zoning Officer had spoken with the Construction Official who took a look at the plans and because the wall was no more than 30", it does not require a railing and that is one of the general reasons why we asked to carry the application to this evening until we had determined that.

Mr. Vu explains the application again to the Board that he had the existing walkway and did not know at the time that he needed a variance for the pavers that he had put down, because the pavers he did put down absorb the water and he has no issues with water, but I need a variance because the Impervious coverage has increased with the installation of this.

The Board discusses the overage of impervious coverage.

Mr. Newman reminds the Board that even though the work has already been completed, this application should not be looked at in any sort of imputative way, nor should this Board be concerned with the possibility that part of this walkway may have to be removed as a result of their decision. It should be looked at as if the work had not been completed and decided as such.

Mr. Newman asks if there are any questions or comments.

Ms. Spindel makes the comment that when she first looked at the house and saw the path that went from the end of the driveway back to the shed; it didn't make sense to me and still does not make sense. It's wide and over in impervious coverage. The path is beautiful but it is too wide.

Mr. Vu explains that the reason behind making the path was to beautify the backyard and make his life easier regarding snow, etc. Everyone in the neighborhood loves his walkway. I have no issues with anyone and I don't see why I would have to reduce it, but I will do whatever you ask me to do because I don't want to have problems with you or

anyone. Just tell me what to do. Personally, I don't see it but I understand the part of a variance and you have to go by the rules. Just tell me what you want me to do.

Mr. Newman appreciates his comments and states it is difficult situation for the members of this Board when we are presented with work that is already done. We need to look at this as if the work is not done because human emotions come into play and that is not something that is in the MLUL which is the only thing that we can make our decisions based on.....We have to look at it for what it is and make the best decision we can.

Discussion continues.....

Ms. Spindel still has concerns over the size of the walkway...

Mr. Newman asks if anyone else has patios or walkways similar in the neighborhood.

Mr. Vu states he is not aware.

Mr. Newman asks about flooding?

Mr. Vu states No, none whatsoever.

No comments from Board members....

Question is asked of Mr. Vu if there was anything in place of the walkway before?

Mr. Vu states it was a concrete pathway that went around the house which went from the driveway to the existing patio that was around 2ft. wide. He took it out and replaced it with the pavers and added to the existing pathway.

Discussion.....

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

Mr. Newman closes this portion.

Mr. Newman opens the applicant to the General Public.

Joseph Mele steps forward....

Mr. Newman swears in Mr. Joseph Mele. (Environment Commission)
15-25 11th Street....

Mr. Mele comments that personally he does not see the reasoning behind a 5ft. wide path....maybe to get things out of the shed and such, it may be appropriate....what I suggest again that because you are adding impervious that prevents water from getting into the ground, maybe there is something you can do to mitigate that by putting pervious

pipe on the side of the concrete walk to promote surface water to go into the ground so he doesn't have to tear up what he has already done.

Discussion.....

Mr. Vu explains that the walkway has been there for over 3years and he has never had a problem with the water because the pavers that he put down absorb water. In fact the lawn on the side is dry. The walkway is beautiful and he sees no reason why it would have to be removed but I will do what you want me to do.

Mr. Newman explains to Mr. Vu that he has heard a lot about impervious coverage and opinions about the percolation through pavers, etc....what hasn't been mentioned is that an established lawn isn't the best percolator of water, but what is better is soft planting beds....I noticed just looking at the pictures that there are no beds or planting and I was wondering that if along side of the path, especially the pathway leading to the shed you would consider taking the time this spring and put in some mulch beds and plantings to make up for some of the non percolating impervious coverage that you did put in and add to the home and not take away from it. It is just a suggestion, you don't have to take it, it will not affect my vote either way, just a thought.

No comments or questions from Board Members....

Mr. Newman asks for a motion.

Mr. Diner makes 1st. motion to approve the application.
Mr. Sacchinelli seconds the motion.

ROLL CALL: Mr. Diner, Mr. Frankel, Mr. Sacchinelli,
Mr. Meer, **YES.**

Mr. Newman &Ms. Spindel, **NO**

Mr. Karas, Mr. Salerno & Mr. Charipper, (Ineligible to vote)

4-Yes

2- No

Motion carries....

Application Approved.

Residential New Business:

1. Application#2009-043, Peter & Marianne Levan
15-07 Eberlin Drive, Block 4703, Lot 31, Zone R-1-3
Proposed patio and walkway around new in ground pool would increase the impervious coverage from 34.95% to 42.87% where 35% is permitted as per Section 125-12 of area yard and building requirement.

Mr. Newman swears in Mr. Peter Levan & Marianne Levan (Applicants)

Fees have been paid and there is proof of service.

Mr. Newman asks the applicants to please explain what it is they would like to do?

Ms. Levan explains that they have put in an In ground Pool and would like to put in a walkway and patio around it. We are over the impervious coverage. Increasing it from 34.95% to 42.87%....

Mr. Newman questions Ms. Levan and clarifies that the pool is not the issue....it is just the walkway and patio?

Ms. Levan states yes and takes the Board through a series of pictures she has supplied with the application, giving addresses of neighbors who also have pools and walkways.

Discussion.....

Review of the plans.....

Ms. Spindel questions the size of the landscaping plan surrounding the pool. She has concerns about the hardscape and the amount of it and I also have concerns because the neighbor has a retaining wall that is 2courses high, you are putting in a lot of hardscape which means the water will run down the sides because it will be pitched that way...there may not be a water issue but then again there may be.....I would like to see the patio reduced and not have the 15ft. depth back there. I would rather see landscaping instead of hardscape.

Discussion continues.....

Calculations are discussed.

Mr. Newman explains that Mr. & Mrs. Levan have an oversized lot, which means when you go over on impervious you are really over, compared to an undersized lot. You have the good fortune so to speak, that you have an irregularly shaped proposal which means

you could do a lot of different things with it in terms of decreasing the impervious coverage.

Mr. Newman requests that he open up to the residents within 200ft. before the Board makes comments or asks questions.

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 none,
Mr. Newman closes this portion.

Mr. Karas makes a comment that he would like to see the pavers in the back reduced from 700sf. to 450-500sf.

Mr. Karas offers suggestions on how to do this by using combination wood chips or any landscaping in the back rather than the pavers proposed.

Discussion continues.....

Mr. Newman suggests that because they are quite over in Impervious Coverage now, I was thinking that 3ft. around the pool would be adequate...you would still have a beautiful landscaped area and keep the impervious as low as possible.

Ms. Spindel feels it should be more, she would suggest 6ft....

Discussion continues.....

Mr. Charipper suggests to the applicants to go over the plans with the Architect and coming back with a revised plan that would be both pleasing to them and the Board.

Mr. & Mrs. Levan agree.

Mr. Newman states he would like to make a personal suggestion, do your best to keep 40% as your minimal goal, I don't know if it will be possible. I would like to see it lower than that, but I think you would be down to just a pool, so...

Discussion.....

Mr. & Mrs. Levan agree.

Application Carried to January 25, 2010

2. Application#2009-044, Lee & Sylvia Morgenstein,
31 Wilcox Place, Block 1205, Lot 42, Zone R-1-3
Res Judicata determination must be made by the Board. Applicant is claiming change of circumstance. Proposed amend prior approval to permit a door with an overhang out of the new rear parent unit where no door was permitted at the original application Resolution#2005-081.

Mr. Andrew Kohut steps forward (Attorney for the Applicants) on behalf of Lee & Sylvia Morgenstein.

Fees have been paid and there is proof of service.

Mr. Kohut begins with a history of this applicant. Back in September of 2005, the applicant was requesting an addition to the house. Part of the addition was that a second dwelling unit be put in on the first floor for his elderly parents. One of the main concerns in the first application was that this was going to become a two family dwelling where only single family residences are allowed, so the Board at the time approved the application with conditions.

1. No Separate Meter, Utilities
2. 2nd kitchen is to be removed upon the sale of the property.
3. Second unit could not have a separate entrance.

Mr. Kohut continues with why they are here tonight 4 years later. Mr. Morgenstein parents are now much older and mobility is limited so they went to the building department to install a door to the side of the house, but what they didn't realize was that because they got an approval with conditions, one being no separate entrance, they would have to go back before the board.

Testimony continues.....

Mr. Newman questions the Res Judicata?

Mr. Kohut explains it is not an issue of Res Judicata, the main reason we are here is to ask for a condition of an approval to be removed.

He reads why it would not be an issue of Res Judicata to the Board....

If we can show just cause of why this one condition should be removed, the Board has the ability to do so.

The Board confers to Counsel.

Mr. Bill Soukas (Board Attorney) explains that he had taken a look into this issue and the two concepts are similar, but different as counsel has alluded to. I do tend to agree that this application is one for modification of a condition of an approval and not really subject to the Res Judicata analysis.

Board Discussion.....

Mr. Charipper questions if the modification was considered, if the property sold, would the door be removed or put back into the original condition..

Mr. Kohut states that the kitchen would be removed, as part of the condition in the original approval upon the sale of the house, but once it is removed the door is permitted as a right because you no longer have a second entrance. It would be just a rear door or a side entrance that many single family dwellings have.

Discussion continues.....

Mr. Kohut continues his argument with why it should be approved.
The layout of the home is discussed. Safety issues are discussed.

Ms. Spindel questions the location of door in the plan.

Mr. Newman swears in Mr. Lee Morgenstein (Applicant)

Marked into Exhibit and titled A1-is a 2005 drawing of the proposed entrance.
Mr. Newman questions why the proposed side entrance is on the 2005 Plan.
Does it exist now?

Mr. Kohut explains it exists now because of the building permit that was received in 2008.

Mr. Newman asks why it was on the 2005 plan.

Mr. Kohut explains he was not involved in the original application, so he can only assume that it was proposed in 2005 and the Board did not allow it....

Mr. Morgenstein explains that it was, in fact an original part of the plan, but one of the conditions was that it be taken out of the plan.

Discussion continues.....

Confusion as to the location of the door on the plan....

Pictures are discussed.

A2 is the rear picture of the door

A3 is the picture from the street (what you would see if you were looking straight ahead)

Discussion on conditions that could be imposed is discussed by the Attorney.....

Mr. Newman discusses with the applicant and the Attorney that with the original proposal that was approved in 2005, you did agree to the fact that there would not be a separate

entrance and agreed to the restrictions and conditions. If the Board asks for a restriction of this kind, they are doing it for a reason. They are doing this to insure that once your parents are no longer living there that this is not a convenient rental. By not having a separate entrance you insure better than any deed restriction could ever insure that it would not become a rental at any point in time by anyone. I don't see how a Deed Restriction stating that when they are no longer living there you're going to change all this because no one but you are going to know they are no longer living there.

Discussion regarding the Deed Restriction attached to the original approval between the Attorney & Mr. Newman.

Mr. Karas questions if the Deed has been put on record containing these restrictions.

Mr. Kohut explains that they were not able to locate the actual physical Deed that was filed at the County Clerk's Office so our office drafted it and signed it....

Mr. Karas questions the three years that have passed....questions if a title search was done to verify if one had been put on record after the resolution in 2005.

Discussion continues.

Facts as to why second doorway was denied are discussed.

Mr. Morgenstein testifies how circumstances have changed and that his parents have to go all the way around the walkway through the front door, through our portion to the portion to where they stay. Where if they had a door on the side, they would drive right up the driveway and walk a few feet and go through their own doorway.

Discussion of photographs.....A1 & A3

Ms. Spindel speaks to an additional walkway being needed upon discussion of the pictures which would include an impervious coverage increase which would be an additional variance....

Discussion.....

Ms. Peck (Assistant Zoning Officer) states on the 2005 proposal it has the zoning information chart on it and their impervious coverage is only 32.2% so a small sidewalk would not affect the impervious coverage so they would not need a variance.

Discussion continues.....

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

Mr. Newman swears in: Mr. Charles Mandon
24 Wilcox Place
Fair Lawn, N.J.

Mr. Mandon states that the height requirement is more than the two steps proposed. It is two steps and the step up to the house....that is a fact. If you are looking for a hardship case, you should do a ramp. He continues explaining his and the neighbors' concerns. We are concerned neighbors who do not want two family houses....continues with the concerns & the negative impact of this.

Discussion regarding steps and Building codes in relation to railings, etc...

Mr. Newman asks if there are any other residents within 200ft. with questions or comments.

Mr. Newman swears in: Kelly Elswich
34 Wilcox Place
Fair Lawn, N.J.

Ms. Elwich states that she was there in 2005 when the application was first heard. This door was proposed in 2005 and they agreed they wouldn't put in a third door and yet they went ahead without the zoning approval and put the door in anyway. It was a concern of mine in 2005 that it would be a two family house, I was not aware that it was a separate unit. I was told it was going to be a kosher kitchen for the parents and when they moved, it would be taken out. My feeling is there is no need for a third entrance into this home. His mother does have trouble walking but that side door will not make it any different from the front door.

Mr. Newman asks if there are any other residents within 200ft. of the applicant. Seeing none.

Mr. Newman closes this portion.

Mr. Newman opens the applicant to the General Public.

Mr. Newman swears in: Craig Miller
5 Ramapo Terrace
Fair Lawn, N.J.

Mr. Miller explains his concerns looking down the road and into the future "if this house is sold, the kitchen comes out, but if the current residents decide to keep the house and move to another house, this property could be rented as a two family house and I hope the Board would consider this when making their decision.

Mr. Newman asks if there are any more questions or comments from the General Public,

Seeing none.

Mr. Newman closes this portion.

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

Mr. Frankel asks if there are any other similar houses in the area?

Mrs. Morgenstein would like to comment.

Mr. Newman swears in: Sylvia Morgenstein (Applicant)

Ms. Morgenstein testifies that she herself went to an open house in the surrounding neighborhood and it did have a side door in addition to the other two doors.

Discussion continues....

Ms. Elswich (Neighbor) steps forward and comments she knows of no house with a third door in the area.

Mr. Mandon(Neighbor)steps forward and comments that there are homes that have decks in the back that have sliding glass doors in place of a window, but I know of no homes in that Cul-d-Sac that have 3 outside, metal or wood doors either with or without a screen door.

Mr. Newman explains that the amount of doors does not make any difference. Whether it be the 16th door to the house. The point is the approval was given for this separate apartment with the stipulation that there would be no separate entrance.

Mr. Newman continues with the reasoning behind it.....deed restrictions, etc.....

Discussion continues....

Ms. Spindel mentions the point that was brought up from Mr. Miller that in the future if the applicant was to vacate the premises and still own it, they would have the opportunity to rent out to two families....that is a food for thought also...

Mr. Newman agrees.

Mr. Karas makes 1st motion to deny this application.

Mr. Meer seconds the motion.

VOTE: Mr. Diner, Mr. Karas, Mr. Charipper, Ms. Spindel, Mr. Salerno,
Mr. Meer & Mr. Newman, **NO**

Application Denied.

Mr. Newman opens for Public Comment.

Ms. Kelly Elswitch, (previously sworn in)
She would like to know what will happen now with the door that is already there with no steps.

Ms. Peck (Assistant Zoning Officer) explains that the door would have to be removed and the siding would have to be replaced as it previously existed.

Resolutions:

1. Application #2009-039, Jeffery Lichtmann, Roosevelt Place, Block 4605, Lot 75, Zone R-1-3– Above ground pool- Approved.
2. Application #2009-041, Anthony & Cheryl Christofi, 5-02 Berdan Avenue, Block 5508, Lot 74, Zone R-1-3– 4’6” Fence- Approved.
3. Application #2009-042, Teresa M. Coffield, 32-09 Heywood Avenue, Block 2807, Lot 5, Zone R-1-2– 5’ Fence- Approved.

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

VOTE: All Present – **AYE.**

Vouchers:

1. Nowell, Amoroso, Klein, Bierman, in the amount of \$833.33 for Professional Services
2. Birdsall Engineering in the amount of \$1,901.25 for David Neidani Application
3. Birdsall Engineering in the amount of \$2,817.50 for 18-35 River Road, LLC
4. Birdsall Engineering in the amount of \$1, 537.50 for Garden State Orthopaedic
5. Azzolina & Feury in the amount of \$450.00 for Fair Lawn Fire Co.#1
6. Azzolina & Feury in the amount of \$4, 500.00 for 18-35 River Road, LLC.
7. Azzolina & Feury in the amount of \$30.00 for Grand Pointe Fitness, LLC.
8. Azzolina & Feury in the amount of \$570.00 for David Nedani Application
9. Azzolina & Feury in the amount of \$450.00 for Garden State Orthopaedic Associates.
10. Karen Koscis in the amount of \$275.00 for Professional Services

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

VOTE: All Present – **AYE**

Correspondence:

1. Mr. Newman reads the announcement that Mr. Benny Salerno, Vice Chairman has resigned effective as of December 31, 2009.
2. Mr. Newman also reads a letter from Jeffery Kantowitz (Attorney for Applicant) in regards to David Neidani, 7-02 Harrison Drive that applicant had decided to withdraw his application without prejudice.
3. Letter from the Fair Lawn Zoning department to Eric Reamy requesting a written report regarding 18-35 River Road, LLC.
4. Letter from Stuart Liebman in reference to Dr. Reyn application. They have also withdrawn their application.
5. Letter from Frank Rivillini,(Attorney for Applicant) for a 30day Extension of time to adopt the resolution of the GSOA site expansion.

Calendar for 2010:

Mr. Karas makes 1st. motion to approve the calendar for 2010.
Ms. Spindel seconds the motion.

Minutes

1. Mr. Diner made a motion to approve the minutes for the September 21, 2009 meeting and Ms. Spindel seconded the motion.

VOTE: All Present – **AYE**

2. Mr. Meer made a motion to approve the minutes for the October 15, 2009 meeting and Mr. Frankel seconded the motion.

VOTE: All Present – **AYE**

Mr. Bill Souka(Board Attorney) took a few minutes to update the Board Members on the Omnipoint Litigation. He had heard back from the Supreme Court who denied our petition for certification and will be allowed to get a Building Permit.

Discussion....

Adjourn:

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

TIME: 11:00P.M.

VOTE: All Present - AYE.

Respectfully submitted,

Cathy Bozza
Zoning Board Clerk