

**BOROUGH OF FAIR LAWN  
ZONING BOARD OF ADJUSTMENTS  
REGULAR MEETING MINUTES  
OF August 22, 2022**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on August 22, 2022

Acting Chairman, Richard Seibel called the Meeting to order at 7:05pm and declared the Meeting was being held in accordance with the Open Public Meeting Law.

**Roll Call:** Mr. Estersohn, Mr. Seibel, Mr. Lowenstein, Ms. Miller  
Ms. Goldstein, Mr. Tratner, Ms. DeLucca, Ms. Horta, Mr. Berow, - **Present**

Mr. Zwillenberg & Mr. Naveh - **Absent**

***Also in attendance:*** Board Attorney; Marc Leibman  
Court Stenographer, Ronda Reinstein  
Assistant Zoning Officer, Ann Peck  
& Clerk to the Zoning Department; Cathy Bozza

***Professionals in attendance:*** No Commercial Applications.

Acting Chairman, Richard Seibel asks Board Member Joan Goldstein to lead the Pledge of Allegiance.

**Residential Carried:**

Mr. Seibel (A/Chairman) opens the meeting with a discussion on Application #22-021, Anthony Dilenno III, 8-03 Cedar Street, Block 5819, Lot 59, Zone R-1-3. Proposed new one family dwelling on a vacant lot.

Mr. Dennis Cummins (Attorney) briefly speaks to Board Members regarding this application. States he has discussed with Mr. Leibman (Board Attorney) & Mr. Matt Rodgers, (Attorney for the Applicant) in length the present legal argument of the Applicant. If the Zoning Board agrees to take the application, we will hear it on September 19, 2022.

Mr. Leibman (Board Attorney) briefly reviews the application with the Board Members. Informs the Board of the present argument of the applicant and tells the Board they will have to review and determine whether or not they have jurisdiction to vote on the application based on the information.

Mr. Cummins agrees to the adjournment of this application until September 19, 2022.

**Application#22-021, Anthony Dilenno III, carried to the September 19, 2022. No further notice required.**

Mr. Seibel moves to the next carried application:

**2. Application #22-020, Harry & Laurie Frenkel.**

0-44 29<sup>th</sup> Street, Block 3205.01, Lot 2.07, Zone R-1-3

Proposed patio would increase the existing impervious coverage from 34% to 42% where 35% is permitted as per Borough Ordinance 125-12 Schedule of area yard and building requirements. Other variances and waivers may be required for this application.

**Ms. DeLuca (Board Member) recuses herself from this application.**

Ms. Peck (Assistant Zoning Officer) needs clarification on Board Members who were absent at the meeting of July 25<sup>th</sup> which included; Mr. Estersohn & Ms. Miller to verify the reading of the audio transcripts sent to them for this application in order to be certified to vote tonight.

Mr. Estersohn states yes, he did hear them. Ms. Miller had issues opening the audio so she could not listen.

Ms. Peck certifies Mr. Estersohn to vote this evening on this application.  
Ms. Miller cannot.

Mr. Seibel informs Mr. Frenkel of only 6 members being able to vote this evening. He has the right to wait for 7 Board members and giving him the option to carry to the next meeting if he wishes to.

Mr. Frenkel's (Applicant) decision is to move forward with 6 Board Members.

**Mr. Leibman (Board Attorney) interjects to announce the adjournment of:**

**Application#22-018, Erika & Samual Youssof,  
33-03 Nicholson Drive, Block 2524, Lot 27, Zone R-1-2.  
Expansion of a non-conforming.  
Carried to the meeting of September 19, 2022. No further notice required.**

Mr. Frenkel begins his testimony informing the Board Members based on their concerns at the last hearing, they did research and found the original plan of the seepage pit. He then spoke with his contractor, John from Kodiak Services, who came over and reviewed the Engineer drawing and walked the property...

Mr. Leibman (Board Attorney) swears in John Hackaspker (Building Contractor)  
Kodiak Services, LLC.  
358 Plaza Road North  
Fair Lawn, N.J.

Mr. Leibman certifies Mr. Hackaspker as an expert in the field of a Builder/Contractor with no objections from the Board.

Mr. Hackaspker begins his testimony reviewing the proposal where Mr. Frenkel wanted a patio which was over coverage. Mr. Frenkel called him after his denial and went over to review the plan with Mr. Frenkel and to find the seepage pit. Explains there was a construction plan from Boswell Engineering showing an installation of a seepage pit...states there is a working drywell because there are no flooding issues, etc.

Mr. Frenkel shares exhibits on screen with Board Members.

Exhibits entered for the record:

A1- Construction plan dated April 17, 1995 from Boswell Engineering.  
A2- Letter from Kodiak Services, LLC dated August 17, 2022

Mr. Seibel swears in Laurie Frenkel & Harry Frenkel (Applicants/Homeowners)  
0-44 29<sup>th</sup> Street  
Fair Lawn, N.J.

Mr. Leibman asks Mr. Hackaspker to please read his letter out loud to the Board Members.

After reading his letter, Mr. Haskaspker testifies he has not found the seepage pit as of yet but tells the Board, once found, he can be sure it's working to capacity and will keep it maintained and cleaned.

Mr. Haskaspker continues; It has to be in operating condition because if it weren't, it would be backing up. You would see the water back up with the type of rain we have today.

Mr. Seibel (Acting Chairman) questions how often does it need to be cleaned?

Discussion ...Mr. Frenkel notes he has leaf guards on gutters.

Mr. Estersohn (Board Member) questions the additional 10% allowance with Storm Water Management for clarification.

Discussion...

Mr. Lowenstein (Board Member) questions and clarifies it would be an additional 10% over the required 35% for a total of 45%, as long as the pavers are pervious and the seepage pit meets the requirements of the Storm Water Management for residential?

Ms. Peck confirms...

Discussion continues...

Mr. Leibman (Board Attorney) notes; if variance is approved, the conditions would be added. The building department will not issue a permit until pictures of the type of pavers to be used are submitted, etc.

Mr. Frenkel questions pavers? Does he have to use pervious pavers?

Mr. Haskaspker (Contractor) clarifies the type of pavers that must be used and verification of the Storm Water Management requirement...confirming both requirements must be met in order to get the 10%?

Correct.

Mr. Frenkel clarifies both requirement need to be met?

Discussion continues...

Mr. Lowenstein (Board Member) notes a maintenance plan for the seepage pit must be followed up with.

Mr. Berow (Board member) asks if there was a record of the original subdivision with the seepage pit maintenance record?

Research will be done.

No further questions from Board Members.

Mr. Seibel opens to Residents within 200ft. of the applicant for questions of this witness. Seeing none,

Mr. Seibel opens to the General public for questions of this witness. Seeing none, Mr. Seibel closes this portion.

Mr. Frenkel (Applicant) states he is trying to decide what route he would like to go...regarding pervious pavers, etc...

Ms. Peck (Assistant Zoning Officer) suggests moving to the next application to allow Mr. Frenkel time to discuss with his Contractor the conditions offered and which option would be better for him.

Mr. Seibel (A/Chairman) agrees.

Mr. Seibel moves to the next application.

### **New Residential Applications**

1. **Application #22-024, Qazim Gista**

**0-81 Fair Lawn Parkway, Block 2205, Lot 28, Zone R-1-3**

Destruction exceeded partial destruction. Property is 50 x 119 where 65 x 100 is required. Demolition of more than partial destruction requires a C-1 variance to rebuild as per Borough ordinance 125-32B.1. Maintain the existing side yard setbacks of 5.92' and 6.24' where 8' is required as per Borough ordinance 125-12 Schedule of area yard building requirements. **Other variances and waivers may be required for this application**

Mr. Leibman (Board Attorney) moves to swear in Mr. Gista but he is having technical issues and cannot be seen. Mr. Leibman cannot swear him in without seeing his hand raised so Mr. Gista allows his Architect, Jacob Solomon to speak to the application.

Mr. Leibman swears in: Jacob Solomon (Architect)  
14-25 Plaza Road  
Fair Lawn, N.J.

Fees have been paid and there is proof of service.

Mr. Leibman certifies Mr. Solomon as an expert in the Field of Architecture with no objections from the Board.

Mr. Solomon begins his testimony explaining the proposal was going to be a small add-a-level. Exterior walls were going to remain but after the siding was remove, extensive insect damage was noted. To be exact, almost 80% of the home was infested. He did not feel safe adding the 2<sup>nd</sup> level on the existing studs as they were. Staying on original foundation, applying for side yard variance on the one side because of grading issues. Explains....

Mr. Seibel (A/Chairman) clarifies it's the one side yard and notes the home is a 70-year-old home that would have issues...

Clarification on the side yard setbacks...

Mr. Lowenstein (Board Member) questions Mr. Solomon on the existing garage. Is it remaining and will there be a repair and a repaving done to the driveway to level it?

Mr. Solomon (Architect) testifies he will try to address this issues but cannot change the grading of the driveway.

Discussion...

Clarification: permits were issued.

No further questions from Board Members.

Mr. Seibel opens the application to Residents living within 200ft. of the Applicant for questions. Seeing none,

Mr. Seibel opens to the General Public for questions or comments. Seeing none,  
Mr. Seibel closes this portion and asks for a motion.

Ms. Goldstein makes a motion to approve the application.

Mr. Tratner seconds the motion.

**VOTE:** Ms. Goldstein, Mr. Estersohn, Ms. Miller, Mr. Tratner, Ms. DeLuca,  
Mr. Lowenstein & Mr. Seibel. - **YES.**

**Motion Carries.**

**APPLICATION APPROVED.**

**Mr. Seibel returns to Application #22-020, Harry & Laurie Frankel after giving pause to take a few moments to discuss with their Contractor the conditions and options given.**

Mr. Haskapker (Contractor for the Applicant) testifies after discussion, Mr. Frenkel has decided to go with the seepage pit and the pervious pavers for the additional 10% allowance.

Discussion follows noting a building permit has to be issued and provide pictures of the pervious pavers before installation...

Mr. Leibman speaks to the conditions that will be added to the resolution- granting a conditional approval based on seepage pit will be maintained and pervious pavers approved by an Engineer. (42% impervious approved based on these conditions).

Ms. Goldstein makes a motion to approve the application.

Mr. Estersohn seconds the motion.

**VOTE:** Ms. Goldstein, Mr. Estersohn, Mr. Tratner, Ms. Horta, Mr. Berow,  
Mr. Lowenstein & Mr. Seibel. - **YES.**

**Motion Carries.**

**APPLICATION APPROVED.**

1. **Application #22-025, Frank Drahouzal  
9 Barry Place, Block 3802, Lot 21, Zone R-1-3**

Proposed driveway expansion from existing 21' wide driveway to 30' wide where only 22' is permitted as per Borough Ordinance 125-48 C. (7) Proposed driveway would increase the existing impervious coverage from 37.78% to 39.03% where 35% is permitted as per Borough Ordinance 125-12 Schedule of area yard and building requirements. **Other variances and waivers may be required for this application.**

**Ms. Goldstein, Mr. Estersohn & Mr. Tratner recuse themselves from this Application.**

Mr. Drahouzal is made aware there are only 6 Board Members instead of 7 which he is entitled to. Given the option to carry to next month's meeting or be heard tonight.

Mr. Drahouzal chooses to move forward with 6 Members.

Fees have been paid and there is proof of service.

Mr. Seibel (A/Chairman) swears in Frank Drahouzal (Applicant/Homeowner)  
9 Barry Place  
Fair Lawn, N.J.

Mr. Drahouzal begins his testimony explain he is here this evening to seek approval to widen the driveway and walkway. He recently had an oil tank removed which left the driveway unleveled and while fixing it, he would like to widen it to make room for his large vehicles.

Mr. Drahouzal is questioned on the Radburn Approval. Was it approved?

Mr. Drahouzal replies yes. Radburn approval was received.

Board Members discuss and review pictures submitted with application with Mr. Drahouzal clarifying locations where proposed work will be done.

Mr. Lowenstein asks Mr. Drahouzal why the current garage cannot be utilized?

Mr. Drahouzal explains the garage is not big enough for his current vehicles. A Tahoe and Van.

Discussion continues....

Clarification on location extension is reviewed.

Mr. Drahouzal testifies Pavers will be used and Kodiak Services will be doing the work but as of yet he has not decided on the design of the pavers.

Ms. Miller questions Mr. Drahouzal as to whether or not he has a seepage pit and will he be parking in front of the garage?

Discussion...

Mr. Drahouzal states he does not have a seepage pit and will not be using the area in front of the garage for parking.

No further questions from the Board.

Mr. Seibel opens the application to Residents living within 200ft. of the Applicant for questions. Seeing none,

Mr. Seibel opens to the General Public for questions or comments. Seeing none, Mr. Seibel closes this portion and asks for a motion.

Mr. Lowenstein makes a motion to deny the application.  
Ms. Horta seconds the motion.

**VOTE YES TO DENY:** Ms. Horta, Mr. Lowenstein - **YES.**  
**Motion fails. 2-4**

### **Motion to approve the Application.**

Ms. Miller makes a motion to approve the application.  
Mr. Berow seconds the motion.

**VOTE:** Ms. Miller, Ms. DeLucca, Mr. Berow, Mr. Seibel- **YES.**  
Ms. Horta, Mr. Lowenstein - **NO**

**Motion carries. 4-2**  
**APPLICATION APPROVED.**

- 2. Application #22-026, Grzegorz Gumkowski, 37-02 Sycamore Drive, Block 2220, Lot 1, Zone R-1-3**  
Proposed 28' x 12' in-ground pool would increase the impervious coverage from 48.5% to 50.8% where 35% is permitted as per Borough Ordinance 125-12 Schedule of area yard and building requirements. Would have a side yard setback of 5' on the south and 10' setback on the east side lines where 10' is required as per Borough Ordinance 125-37 B. Swimming pools, tennis courts and similar private recreational facilities. **Other variances and waivers may be required for this application.**



Mr. Seibel swears in Grzegorz Gumkowski (Applicant/Homeowner)  
37-02 Sycamore Drive  
Fair Lawn, N.J.

Mr. Gumkowski explains to the Board how he would like to put an in-ground pool in his backyard. He has four (4) children and would enjoy the family time it could provide.

Question arises the current impervious is already at 48%.

Mr. Seibel swears in Ms. Ann Peck (Assistant Zoning Officer) to the Borough of Fair Lawn.

Ms. Peck states he is proposing no walkway around the pool.

Mr. Gumkowski refers to the survey and notes to the Board Members there is only one neighbor on his side, the other is a park area.

Ms. Goldstein (Board Member) asks where is the pool being installed? I understand it is a corner lot, is it along Sycamore?

Mr. Gumkowski states yes, that is correct.

Discussion continues...

Ms. Goldstein asks what he can do to mediate the high impervious number? Can you propose a seepage pit?

Mr. Gumkowski testifies he is willing to hire an Engineer for the seepage pit if required.

Mr. Estersohn (Board Member) questions if the lot is undersized or conforming? After review, notes it is conforming and the hardship is the corner lot....

Mr. Gumkowski is willing to work with an Engineer and would put in as condition the installation of a seepage pit.

Discussion...

Mr. Estersohn notes the closeness to the adjoining neighbor and asks if he can cut back on the pool?

Discussion continues...

Mr. Leibman (Board Attorney) asks Mr. Gumkowski if he has been using the above-ground pool? How many years?

Mr. Gumkowski states around 4 years.

Discussion continues on pictures submitted and clarification on year home was purchased.

Mr. Gumkowski bought the home in 2014. Discussion on pictures. 2012- before and after? Addition, etc...were there permits, etc...

Mr. Gumkowski testifies he did the renovations to the home.

Ms. Peck (Assistant Zoning Officer) suggests carrying the application to review the renovation.

Discussion.

Mr. Seibel (A/Chairman) asks Mr. Leibman (Board Attorney) to explain Res Judicata to Mr. Gumkowski.

Mr. Leibman does so.

Mr. Gumkowski asks to carry the application to September 19, 2022.

Request granted.

**Application carried to September 19, 2022. No further notice required.**

### **Order of Business:**

#### **Memorialized Resolutions:**

1. Application #22-022, David & Charlene Mangual, 0-05 Kenneth Ave, Block 4318, Lot 1-Destruction exceeded partial -***Approved***

Ms. Horta makes a motion to approve the Resolution and Mr. Lowenstein seconds the motion.

All Present: **AYE**

2. Application #22-019, Richard & Jamie Blanchard, 49 Pomona Ave, Block 6803, Lot 1, Zone R-1-3—Proposed separate dwelling unit within one family-***Approved with conditions.***

Mr. Lowenstein makes a motion to approve the Resolution and Ms. Miller seconds the motion.

All Present: **AYE**

**Minutes:**

Mr. Tratner makes a motion to approve the minutes as amended for **July 25, 2022** and Ms. Miller seconds the motion.

**VOTE:** All Present- **AYE**

Discussion amongst Board Members regarding Applications, etc....

**Adjourn:**

Ms. Horta makes a motion to adjourn and Ms. Goldstein seconds the motion.

**VOTE:** All Present: **AYE**

Time: **9:50pm**

Respectfully submitted,

Cathy Bozza  
Zoning Clerk

