

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
OF FEBRUARY 28, 2022**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on February 28th, 2022

Chairman, Kevin Puzio 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. Naveh, Mr. Lowenstein, Ms. Miller
Ms. Goldstein, Mr. Tratner, Ms. DeLuca, Ms. Horta, Mr. Zwillenberg
& Mr Puzio- **Present** Mr. Seibel - **Absent**

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

Professionals in attendance: Paul Azzolina-Board Engineer-
Brian Intindola-Traffic Engineer-
Peter Van den Kooy-Board Planner-

Chairman Kevin Puzio leads the Pledge of Allegiance.

Mr. Puzio announces the request for adjournment from the following Application:

1. Application # 21-036, Jacob & Donna Taylor, 5-19 Hazel Place, Block 4413, Lot 8, Zone R-1-3-Proposed 12' x 26' In-ground pool.

*Board grants the extension. Application carried to the meeting of March 21, 2022.
No further notice required.*

Attorney Jenn Berardo from Wells, Jaworski & Leibman speaks on behalf of Mr. Andrew Kohut who requests an adjournment on the following application:

2. Application #21-029, Mark & Lisa Caterella, 30-25 Heywood Ave, Block 2805, Lot 8, Zone R-1-2. Proposed addition and expansion of s non-conforming.

Ms. Berardo explains Mr. Kohut had a family emergency and could not attend this evening. Requests the application be carried to March 21, 2022.

Board grants the extension. Application carried to March 21, 2022. No further notice required.

3. Application # 21-029, Mark and Lisa Caterella, 30-25 Heywood Ave, Block 2805 Lot 8, Zone R-1-2- Proposed Addition and expansion of a non-conforming.

Board grants the extension. Application carried to March 21, 2022. No further notice required.

New Residential Business:

1. **Application #21-001, Son & Thann Pham, 39-25 Sunderland Drive, Block 1206, Lot 8, Zone R-1-3**
C-1 expansion of a nonconforming variance is required as per Borough Ordinance 125-57(D)(1)(d)(1) Would increase the impervious coverage from 36.72% to 40.97% where 35% is permitted. Would maintain the existing front yard setback of 20.40' where 25' is required. Would maintain the existing side yard setback of 6' and 6.10' where 8' is required as per Borough Ordinance 125-12 Schedule of area yard and building requirements.

Fees have been paid and there is Proof of Service.

Mr. Puzio (Chairman) asks who will be presenting this evening.

Mr. Ed Sherman (Architect for the Applicant) will do so.

Mr. Puzio swears in Mr. Edwin Sherman of Waldwick, N.J. and certifies him as an expert in the field of Architecture with no objections from the Board.

Mr. Sherman begins his testimony explaining the applicant is in the R-1-3 zone and is undersized at 5,052sf where 6500sf is required. Explains how it is a pre-existing non-conforming home and the irregular shape of house creates a hardship on the property.

Mr. Sherman continues. What the applicant is looking to do is add a one-story addition to the structure in the rear and stay within the requirements of the rear yard and front yard. Explains how the mother is now living with them as well as two daughters and they are looking to open up the 1st floor, adding a bedroom to the rear for the mother.

Speaks to the only variance required. Total impervious. Requirement is 35%; existing is 36.72% and requesting 40.97%.

Mr. Sherman explains how he removed the deck and walkway in order to keep numbers down and building coverage does not go over...

Mr. Puzio opens to Board Members for questions.

Mr. Naveh (Board Member) questions the Zoning table for clarification...

Mr. Sherman explains the side yard existing will remain.

Mr. Leibman (Board Attorney) discusses relief. Explains to the Board to grant only relief for improvement sought. It is a pre-existing non-conforming....

Discussion.

Mr. Naveh questions Mr. Sherman on other areas he could remove impervious to bring the number down to the required 35%.

Mr. Sherman replies no and explains.

Ms. Goldstein (Board Member) questions the removal of deck. Comments this does not count as impervious so in essence you are not removing impervious, you are adding impervious.

Mr. Sherman explains how he did remove the walkway but agrees that the deck does not count as impervious.

Discussion...

Ms. Goldstein requests a landscape plan and asks what else can be done to mitigate the impervious.

Mr. Sherman speaks to the possibility of a seepage pit being installed if needed and comments on the landscape of the home currently in the back yard. Beautiful fruit trees, etc...beautifully taken care of.

Mr. Zwillenberg (Board Member) would like to clarify impervious coverage based on Ms. Goldstein's comment. Asks if deck was included with impervious calculations.

Mr. Sherman replies no. Reviews the calculations for the Board and clarifies.

Discussion continues.

Mr. Zwillenberg asks if there is any opportunity to remove impervious from the front of home.

Mr. Sherman reviews driveway & front walkway...

Discussion...

No further questions from Board Members.

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

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

Mr. Estersohn makes a motion to approve the application with the conditions of the installation of a seepage pit and landscaping.

Mr. Lowenstein seconds the motion.

VOTE: Mr. Estersohn, Mr. Naveh, Ms. Miller, Ms. Goldstein, Mr. Lowenstein, Mr. Zwillenberg & Mr Puzio- **YES.**

Motion carries.

APPLICATION APPROVED.

2. Application #21-002, Tim Murphy

17-11 Parmelee Avenue, Block 5804, Lot 24, Zone R-1-3

Proposed generator would have a side yard setback of 2' where 4' is required as per Borough Ordinance 125-33 Accessory Buildings structures and uses.

Fees have been paid and there is proof of service.

Mr. Puzio swears in Tim Murphy (Applicant/Homeowner)
17-11 Parmelee Ave;
Fair Lawn, N.J.

Mr. Murphy explains the reason for his application. He would like a gas-powered generator to be installed within his property in the rear. Explains he has raised his children here & would like Fair Lawn to be his forever home and believes that having a generator installed would give them the security to protect the property and their well-being. Notes the changing weather conditions and the common power outages due to extreme conditions and would like to be prepared for emergencies such as this.

Mr. Puzio opens to the Board Members for questions.

Mr. Lowenstein (Board Member) asks if any consideration was given to keeping it within the 4ft. setback?

Mr. Murphy explains the generator is an investment, to move it further back would be costly. Explains movement of the landscaping & trees that would have to be done...

Mr. Zwillenberg (Board Member) asks if there is any other equipment in this location.

Mr. Murphy testifies there is an air conditioner.

Mr. Zwillenberg asks how far the generator extends? Is it further than the air conditioner?

Discussion...

Mr. Puzio (Chairman) asks how close the generator will be to the air conditioner?

Mr. Murphy states it will be 12-15ft. from the air conditioner.

Mr. Naveh (Board Member) hears the economic reason for the generator's location but questions if there is another area of the yard you could locate it?

Mr. Murphy reiterates the reason for not doing so. It would entail removing trees and landscaping and would be very costly.

Mr. Naveh notes he has concerns with the location of the generator being so close to the neighbors & air conditioner.

Discussion continues.... Mr. Murphy states there are other neighbors in the area who have generators...

Mr. Zwillenberg (Board Member) believes the natural gas generators do have to run periodically for maintenance, correct?

Mr. Murphy replies; Yes. Once a month for 15 minutes.

Discussion moves to Noise Ordinance requirements...

Mr. Murphy testifies the generator is no louder than a lawn mower.

Discussion continues.

No further questions from Board Members.

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

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

Mr. Estersohn makes a motion to approve the application.

Ms. Miller seconds the motion.

Before final vote, Mr. Zwillenberg requests Mr. Liebman's (Board Attorney) advice regarding the Noise Ordinance.

Mr. Liebman states it will need to conform to the DEP requirements or it will become an Enforcement issue.

VOTE: Mr. Estersohn, Ms. Miller, Ms. Goldstein, & Mr Puzio- **YES**.
Mr. Naveh, Mr. Lowenstein & Mr. Zwillenberg- **NO**

Motion Carries. 4-3
APPLICATION APPROVED.

Mr. Puzio calls for a recess:

Mr. Puzio reopens meeting: 8:15pm

Roll Call: Mr. Estersohn, Mr. Naveh, Ms. Miller, Ms. Goldstein, Mr. Tratner,
Ms. DeLucca, Ms. Horta, Mr. Lowenstein, Mr. Zwillenberg & Mr Puzio -
PRESENT.

New Commercial Application:

1. Application #21-037, I Learn Schools, Inc.
33-00 Broadway, Block 2218, Lot 13, Zone B-2/R-1-3

Proposed amended site plan approval. Prior use and site plan approval was granted July 5, 1983. Amendment proposes to construct a second driveway for egress only on the eastern portion of the site along 34th Street and to change the existing driveway off Broadway to an ingress only driveway. Original approval had 142 spaces required with 144 spaces provided. A loss of 5 parking spaces would reduce the number of space on the site to 139 spaces with the proposed changes and current uses in the building, the site now requires 139 spaces as provided in the revised plans. Borough Ordinance 125-42B- prohibits a business-any side street extending through such residential district shall not be used for any business purposes. Use variance 125-57D(1)(d)(1) and amended site plan 125-66 General provisions. Other variances and waivers may be required for this application.

Fees have been paid and there is proof of service.

Ms. Jennifer Berardo (Attorney for the Applicant) opens the application by briefly reviewing the application explaining the property is located in a split zone lot, one being B2 as well as R-1-3 Residential. Property is medical & office space. Gives history of past. Reviews proposal to install picnic tables and second driveway. No proposed changes to existing building or Medical practice. The use is compatible with the area.

Ms. Berardo refers to Mr. Mark Gimigliano, (Professional Engineer for the Applicant) who will go over the proposed site for you.

TRANSCRIPTS OF ALL TESTIMONY HAVE BEEN ORDERED AND WILL BE AVAILABLE FOR REVIEW UPON COMPLETION AND APPROVAL.

Memorialized Resolutions:

1. Application #2021-011, Roman Inasaridze, 23-07 Rosalie Street,
Block 3323, Lot 23&24, Zone R-1-3 Proposed Addition-***Approved w/conditions.***

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

All Present: **AYE**

2. Application #2021-032, Sinatra Properties, LLC., 10-04 Bellair Avenue, Block
4527, Lot 15, Zone R-1-3-Proposed addition/renovation—***Denied***

Mr. Zwillenberg makes a motion to approve the Resolution and Ms. Goldstein seconds the motion.

All Present: **AYE**

3. Application #2021-033, Jeff Ayes, 7-56 Westmoreland Avenue, Block 5720,
Lot 8, Zone R-1-3-Proposed shed. - ***Denied***

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

All Present: **AYE**

4. Application# 2021-016, Falvio & Margaret Gross, dba Johnny & Hanges
23-20 Maple Ave, Block 5903, Lot 4-Proposed drive-thru window. - ***Denied***

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

All Present: **AYE**

Minutes:

Ms. Goldstein makes a motion to approve the minutes as amended for ***January 24, 2022*** and Mr. Tratner seconds the motion.

VOTE: All Present- **AYE**

Mr. Puzio (Chairman) regretfully announces his resignation as Chairman of the Board because of personal reasons and demands with his job in which he will be traveling extensively again and cannot dedicate the time as needed. Sent a letter to the Counsel notifying them of his resignation.

Comments and discussion...

Board Members decide they do not want to revote for a new Chairman this evening. Nomination for Chairman will be held at the next meeting of March 21, 2022.

Ms. Peck (Assistant Zoning Officer) brings the discussion of a time frame when Board Members will move from Virtual meetings to returning to in-person Court meetings....

Discussion...

Motion: Consensus is to stay virtual for March and reopen and discuss next month.

Adjourn:

Mr. Navah makes a motion to adjourn and Ms. Goldstein seconds the motion.

VOTE: All Present: **AYE**

Time: **11:00pm**

Respectfully submitted,

Cathy Bozza
Zoning Clerk

