

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING MINUTES
OF JUNE 20, 2022**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Special Meeting held on June 20, 2022

Chairman, Avi Naveh called the Meeting to order at 7:04pm and declared the Meeting was being held in accordance with the Open Public Meeting Law.

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

Ms. Miller, Mr. Tratner & Mr. Zwillenberg- **Absent**

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

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

Mr. Naveh clarifies all certifications of transcripts have been read for voting purposes from the following Board Members: Ms. DeLucca, Ms. Horta & Mr. Berow.

Board Member Mr. Seibel leads the Pledge of Allegiance.

Carried Residential Application:

1. **Application #22-009, N Laterza Real Estate Holdings, Inc.
7-36 Central Avenue, Block 5829, Lot 12-15, Zone R-1-3**
Corner Property. Proposed subdivision of existing 100'x 100' lot. Would create two 50'x 50' non-conforming lots as per Borough Ordinance 125-65. Proposed removal of existing one family dwelling with a detached garage and replace with (2) one family dwellings. Both proposed new lots 12.01 & 12.02 would have a building coverage of 27.9% where 25% is permitted. Would have impervious coverage of 45.1% where 35% is permitted. Lot 12.01 would have a side yard of 6' and Lot 12.02 would have a side yard of 8' where 8' is required. Lot 12.02 would have a front yard setback on Chester Street of 12' where 25' is required as per Borough Ordinance 125-12 Schedule of area yard and building requirements. Both lots 12.01 & 12.02 would have an FAR of 51% where 40% is permitted, requiring a D-4

variance as per Borough Ordinance 125-57. D.(1)(d)[1] **Other variances and waivers may be required for this application.**

Ms. Jennifer Berardo (Attorney for the Applicant) from the law firm, Wells, Jaworski & Liebman, LLC., Paramus, N.J. reviews the last testimony on April 25, 2022 regarding the sub-divide being requested. Speaks to the comments and concerns from the Board Members at the meeting and notes since then have reduced the size of the homes proposed.... explains the reduction to the FAR and building coverages.

Ms. Berardo states prior to the April 25th hearing, she sent a memorandum and would like to read it for the record.... dated May 23, 2022.

Ms. Berardo after reading the correspondence for the record, calls her first witness, Mr. Matthew Evans, (Professional Architect for the Applicant) previously sworn.

Mr. Evans refers to the plans dated June 6, 2022. He identifies revised plans and modifications. SK1 & SK2. Explains how they reduced the size of the buildings. Details and shares exhibit onscreen with the Board Members.

Ms. Berardo (Attorney) clarifies no rooms have been eliminated, just reduced.

Mr. Evans replies yes and details the reductions in square footage.

Mr. Naveh (Chairman) opens for questions of Board Members.

Seeing none, Mr. Naveh questions Mr. Evans on his testimony regarding the living space being compromised with reduction?

Mr. Evans replies what he was stating was: with any further reduction, the open flow of the kitchen area, etc. would be compromised.

Mr. Naveh opens to Board Members for questions of the witness. Seeing none,

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

Mr. Naveh opens to the General Public for questions of this witness. Seeing none,

Ms. Berardo calls her next witness; Mr. Thomas Stearns, (Professional Engineer for the Applicant) previously sworn.

Mr. Stearns reviews the plans of December 8, 2021 which were revised on 6/3/2022. Points out the rotated dwellings at the suggestion of Board Members to Chester Street. The 100x100 lot is sub-divided down the middle and the buildings are the same. Rotated driveways on Chester.

Mr. Stearns' testimony continues, stating 6 trees are to be removed and 4 Elm trees will replace them along with other types of plantings, such as arborvitaes, etc...

Mr. Stearns moves into detailing the setbacks...homes of same design, storm water management plan remains. Reviews Zoning Chart with Board members & Board Professionals.

Ms. Berardo clarifies with Mr. Stearns the revisions have met the Zoning requirements...

Mr. Stearns speaks to the Lot 12.01 noting the side yard setback and building coverage variance are no longer required and Lot 12.02, eliminated the building coverage variance.

No further questions from Ms. Berardo. Testimony concludes.

Mr. Naveh (Chairman) opens to Board Members for questions of this witness. Seeing none,

Mr. Naveh would like clarification on the rear yard setback on both lots...and questions the purpose of the concrete walkway's length?

Discussion...Mr. Stearns clarifies the rear yard setbacks and explains the walkway length is to access the garage.

Mr. Naveh questions the fence type? Stockade? Both sides? Will there be one between the homes?

Mr. Stearns shares the screen with Board Members to show the locations of the 3ft. fence locations. Stockade type. Explains there will be no fence between the homes. They will leave that up to the discretion of the eventual owners.

Mr. Naveh asks if the trees being planted native to Fair Lawn?

Discussion...Mr. Stearns will clarify.

Mr. Naveh opens to Board member questions. Seeing none,

Mr. Naveh opens to Board Professionals for questions of this witness.

Mr. Peter Van Den Kooy (Board Planner) questions the height plantings at Central & Chester, reminding Mr. Stearns there is a site triangle to consider so they have to be sure this will not be affected.

Mr. Stearns testifies he will be sure to clarify and correct species if needed.

Mr. Paul Azzolina (Board Engineer) notes 4 Elm Trees are proposed. These trees are subject to disease. I would recommend the Borough Engineer giving a few recommendations, possible Red Maple's, etc...

Mr. Azzolina also notes the zoning table needs a correction on Lot 12.02... Minimum side yard # in wrong location. Explains.
So noted by Mr. Stearns.

Ms. Goldstein (Board Member) recommends speaking to the Borough Shade Tree for suggestions on plantings also.

No further questions from Board Members.

Ms. Berardo calls her 3rd witness. Ms. Brigitte Bogart, (Professional Planner for Applicant) previously sworn.

Ms. Bogart shares Exhibit P7-(Pictures & Planning Analysis) dated 2/20/2022 with the Board Members & Professionals onscreen, reviews the application explaining she had taken a lot of photos while visiting site.

Ms. Bogart gives a brief summary of the site visited. Five (5) lots were greater than the average lot size, reviews the average FAR, etc...describes the photos and locations of each. Testifies the neighborhood varies regarding designs of homes...there are Cape Cods, Ranch style, 2 ½ story homes and two very large homes.

Ms. Bogart continues...from a planning perspective they are keeping within the character of the neighborhood, explains. Refers to the Land Use Law which encourages the most appropriate use of the land which is keeping in the character of the neighborhood today.

Ms. Bogart's testimony continues...reviews the benefits to the neighborhood, how the homes fit into the neighborhood, there is sufficient parking with free flow. They have reduced the size of the homes, etc. C-variances are reviewed. Light, Air & Open space are provided with new setbacks, eliminated building coverage.

Ms. Bogart continues with all the positive criteria and believes in her expert opinion the benefits outweigh the detriments.

Ms. Bogart concludes her testimony.

No further questions from Ms. Berardo. (Applicant's Attorney)

Mr. Naveh (Chairman) opens to Board Members for questions of this witness.

Mr. Naveh comments he still feels there is room to reduce.

Discussion...

Ms. Goldstein (Board Member) also agrees with Mr. Naveh's comments and clarifies the frontage setback.

No further questions from Board Members.

Mr. Naveh opens to Board Professionals for questions.

Mr. Peter Van Den Kooy questions the year buildings were constructed in area.

Ms. Bogart believes the 1900's. Home percentage 1920-1950.

Discussion continues...

No further questions.

Mr. Naveh opens to Residents within 200ft. of the Applicant for questions of the witness.
Seeing none,

Mr. Naveh opens to the General Public for questions...seeing none,

Mr. Naveh closes this portion.

Ms. Bogart summarizes her testimony and asks for an approval on this application.

Mr. Naveh asks if any Board Members would like to comment before making a motion?

Mr. Estersohn (Board Member) comments on the improvements made and would like to make a motion.

Mr. Estersohn makes a motion to approve the application with the added condition of all plantings be approved by the Board Engineer and maintained at the height requirements, and including all conditions shown on plan.

Ms. Horta seconds the motion.

VOTE: Ms. Goldstein, Mr. Estersohn, Mr. Seibel, Ms. DeLucca, Ms. Horta,
Mr. Lowenstein & Mr. Naveh. **YES.**

Motion Carries.

APPLICATION APPROVED.

Mr. Naveh requests a 5minute Recess.

Mr. Naveh re-opens Meeting.

ROLL CALL: Mr. Estersohn, Mr. Seibel, Mr. Lowenstein, Ms. Goldstein,
Ms. DeLucca, Ms. Horta, Mr. Berow & Mr. Naveh- **Present**

Mr. Lowenstein (Board Member) recuses himself from this Application.

Commercial Business Carried:

**1. Application #22-010, Broadway Medical Center, LLC.
0-86 Midland Avenue, Block 3326.01**

Proposed subdivide, Lot 21 into 2 lots. Existing one family dwelling to remain on proposed lot 21.01 and provide parking for the Broadway Medical Center, LLC on the proposed new lot 21.02. The existing Broadway Medical Center front portion of the property is located with the B-2 zone along Broadway and the rear parking area is within the R-1-3 zone. The proposed new lot, 21.02 would provide additional parking to the Medical Center. Variances are required for Lot 21.01. Existing one family would remain and the subdivision would reduce the square footage of the lot from 10,695 to 5650 where 6500 is required. Would maintain the existing lot frontage of 50' on Midland where 65' is required. Would maintain the existing side yard setbacks of 6' on the north side and 13.3' on the south side where 8' is required. The proposed subdivision will change impervious coverage from existing 33.2% to 49.4% where 35% is permitted. Other variances and waivers may be required for this application.

Mr. Stuart Liebman, Attorney from the law firm, Wells, Jaworski & Liebman, LLP Paramus here representing the Applicant, Broadway Medical, LLC.

Mr. Liebman reviews the Special meeting testimony of April 11, 2022 regarding the sub-division of Lot 21 for additional parking in what is a Commercial/Residential Zone. There will be no changes to the Broadway Medical Building itself. The lot will be used only for additional parking.

Mr. Liebman refers to the sub-division plan of April 22 & May 15, 2022 in which plans were modified to amend some of the comments and concerns of the Board Members. Speaks to the parking lot extension exhibit and items regarding the sub-division, FAR information, impervious coverage and how it will be mitigated with a seepage pit installation, etc. Explains how a discussion amongst the owner of the property, the engineer, etc. was done. Walked the property with the owner and discussed location of seepage pit installation which he agreed to and wants to move forward with the application.

Mr. Liebman continues the review of all the concerns and questions of the Board Members and states he has brought two witnesses again this evening, the engineer & planner, both from Stonefield Engineering & Design.

Mr. Liebman calls his 1st witness, Mr. Arthur Kuyan. (Professional Engineer/Project Manager) certified and accepted as an expert and previously sworn.

Mr. Kuyan shares the screen with Members of the Board and Board Professionals, identifies plans of May 5, 2022 with Updates-Exhibit A1-Minor sub-division-2 sheets. Clarification on FAR-Lot 21.01 (0.26%) and speaks to mitigation of impervious on property. Explains how he walked the property in a detailed manner with the owner of the property, the engineer, etc. where the seepage pit proposed will be located in backyard. The owner understands and agrees with the design.

Exhibit A2- Parking Lot Extension. Dated April 19, 2022 where an additional 15 spaces which still comply with requirements.

Discussion....

Mr. Kuyan testifies he will ensure the new seepage pit will have no storm water issues or Adverse impact to the area.

Mr. Liebman has no further questions of this witness.

Mr. Naveh (Chairman) asks if there are any changes to the Zoning table?

Mr. Kuyan replies; yes, outside of the FAR, & two sheds will be removed. (Impervious)

Discussion continues...clarification of Patio reduction proposed.

Mr. Kuyan explains. Yes, this was discussed but believes the seepage pit would eliminate the water issues rather than remove pavers...

Mr. Naveh would still like to see additional impervious reduction...

Mr. Berow (Board Member) refers to Exhibit A2-(Lot 26.01) asks if it becomes additional parking, would Buffer remain pervious?

Mr. Kuyan reviews and states this will likely be landscaped or will agree to the condition if needed.

Ms. Goldstein comments on Exhibit A2, the extension that may or may not happen... she is having a hard time approving something that may or may not happen.

Discussion continues....

Ms. Goldstein asks if there is a tree or planting plan?

Mr. Kuyan agrees to the condition if application is approved, he will provide a detailed plan.

Mr. Naveh questions what will separate the Commercial lot from the residential property owner?

Mr. Kuyan replies; a fence would be proposed and shrubbery.

Discussion continues....

No further questions from Board Members.

Mr. Naveh opens to Board Professionals for questions of this witness.

Mr. Paul Azzolina (Board Engineer) would like clarification on the seepage pit flow.

Discussion....

Mr. Naveh opens to residents within 200ft. of the applicant for questions of this witness, seeing none.

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

Mr. Naveh calls for a recess.

Mr. Naveh re-opens meeting.

ROLL CALL: Mr. Estersohn, Mr. Seibel, Ms. Goldstein, Ms. DeLucca, Ms. Horta, Mr. Berow & Mr. Naveh- **Present**

Mr. Liebman calls his 2nd witness, Matthew Seckler. (Professional Planner)

Marc Leibman, (Board Attorney) swears in Matthew Seckler.

Stonefield Engineering, LLC.
92 Park Ave
Rutherford, N.J.

Mr. Leibman certifies Mr. Seckler as an expert in Professional Planning with no objections from the Board.

Mr. Seckler begins by stating he has reviewed the plans and reviewed & heard prior testimony of the other experts regarding this application.

Mr. Seckler shares the site plan/exhibit with Board Members onscreen. Describes subject project and surrounding lots. Details the street side of location, pre-existing non-conforming lots, notes there is no change to the front of street visually and the rear lot to be sub-divided would not be seen from the front of the building or by passersby's. There is no new impervious, mentions the proposed shed removals, etc.

Mr. Seckler continues...within a 200ft. radius, 17 of the 28-29 lots in the R-1-3 zone are smaller. Lot size is compatible to other lot zones and would fit into neighborhood.

Testimony continues.... Mr. Seckler reviews the positive criteria and sees no negative. Explains. Speaks to the Master Plan, Special Improvement of Broadway, etc...

Testimony continues...regarding utilization of land, the Master Plan, R-1-3 Zone.

Mr. Naveh (Chairman) notes the Master Plan asks us to promote 49% Impervious, but he cannot get past it...

Mr. Seckler explains why the impervious is not increasing, it would be the same impervious with the seepage pit. Explains...

Discussion continues...

Mr. Naveh opens to Board Members for questions of this witness. Seeing none,

Mr. Naveh opens to Board Professionals for questions of this witness.

Peter Van Den Kooy (Board Planner) needs clarification on the impervious coverage.

Discussion....

Mr. Seckler explains the owner of the property, agreed to the installation of the seepage pit in lieu of the removal of the patio.... roof- runoff, 750sf.

Ms. Goldstein (Board Member) still has impervious coverage concerns. Notes if approved, it runs with the land forever.

Mr. Seckler again states the seepage pit was agreed to mitigate impervious coverage issues...

Discussion continues...clarification on location of seepage pit.

Mr. Leibman (Board Attorney) interjects to explain to the Board Members who have concerns regarding impervious and an approval, the subdivision is the transfer of land between neighbors, etc. Conditions approved will also run with the land. They are not creating additional impervious, there are no differences, no objectors.

The seepage pit is designed to be on the residential lot, to mitigate water issues on lot 21.01 and agreed to by the owner.

Discussion continues.

Mr. Naveh again voices his concerns...the owner is not here to question, etc...

Mr. Stuart Liebman (Attorney for the Applicant) states he is the representative of the owner on the residential lot and subdivision. They want to move forward with this application and understand exactly what they agreed to.

Mr. Berow (Board Member) asks; if approved, would Broadway Medical be able to do improvements without coming before the Board?

Discussion and clarification. Broadway Medical would have to come before the Board if any changes are to be made.

No further questions from Board Members.

No further questions from Board Professionals.

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

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

Mr. Stuart Liebman would like to comment and summarize. He begins by giving a little history on the Broadway Medical Center and Dr. Patina. Notes Dr. Patina has developed this property all along the area, upgrading this area from the old Hy-Way Theater and a run-down Auto shop, etc.... serving the Community for years.

Mr. Liebman addresses the concerns regarding impervious coverage and asks the Board Members to vote favorably on this application.

Mr. Naveh asks for a motion.

Mr. Estersohn makes a motion to approve the application.
Mr. Berow seconds the motion.

VOTE: Ms. Goldstein, Mr. Estersohn, Mr. Seibel, Ms. DeLucca, Ms. Horta,
Mr. Berow & Mr. Naveh. - **YES.**

Motion Carries.
APPLICATION APPROVED

Adjourn

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

VOTE: All Present: **AYE**

Time: **10:00pm**

Respectfully submitted,

Cathy Bozza
Zoning Clerk