

**BOROUGH OF FAIR LAWN
ZONING BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
JUNE 27, 2022**

Following are the minutes of the Fair Lawn Zoning Board of Adjustment's Regular Meeting held on June 27, 2022

Chairman, Avi Naveh 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: Ms. Goldstein, Mr. Estersohn, Mr. Seibel, Ms. Miller, Mr. Tratner, Ms. DeLucca, Mr. Berow, Mr. Lowenstein, & Mr. Naveh- **Present**
Ms. Horta- **Absent** Mr. Zwillenberg (**Late**)

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

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

Board Member Mr. Seibel leads the Pledge of Allegiance.

Mr. Naveh announces he is going to do a little switch on the agenda this evening. Moves to hear:

Rehearing Request:

1. Application #22-016, Christina M. Floyd & Antonio Rodriguez
3-07 Lambert Road, Block 5621, Lot 17.01, Zone R-1-3
Corner property. Proposed 6 ft. fence would be 15.3' setback from Lambert Road where 25' is required. Only 3 foot fences are permitted within the front yard setback as per Borough Ordinance 125-38 Fences and walls. **Application was denied at the May 23, 2022 meeting**

Jennifer Berardo of Wells, Jaworski & Liebman, LLP, Paramus, New Jersey, Attorney here on behalf of the Applicants, Christina Floyd & Antonio Rodriguez.

Mr. Naveh (Chairman) asks Ms. Berardo what the basis of a rehearing request is?

Ms. Berardo begins by stating her clients were present at the May 23, 2022 hearing seeking relief for a 6 ft. fence as well as a setback variance. They were denied.

She was contacted by the Applicant and what she understood after her discussion with Ms. Floyd is after the hearing there was a lot of confusion as to what the proposal was... What the relief could possibly be and the facts of the matter. With that being said, I am asking for a re-consideration from the Board due to the fact of the possible confusion at the May 23 meeting and determination made.

Marc Leibman (Board Attorney) interrupts testimony to inform Board Members, Mr. Zwillenberg (Vice-Chairman) has joined the meeting.

Ms. Berardo continues...based on what she was told from her client, there was some potential discussion of a reduction in height with a 5 ft. fence and 1 ft. lattice as an option. She is asking for a reconsideration for the proposal of the application, will notice and provide additional clarity with the proposal.

Mr. Naveh (Chairman) states he is not familiar with a rehearing request; the Board doesn't get many...he doesn't recall any. Defers to Ms. Ann Peck (Assistant Zoning Officer) regarding By-Laws or grounds for a rehearing based on a vote.

Ms. Peck defers to the Board Attorney, Marc Leibman.

Mr. Leibman (Board Attorney) explains the legal aspects of a reconsideration request with Board Members... This Board is a quasi-judicial Board, the Board could always change their mind, etc...based on facts, etc. and as long as you have not voted on a Resolution, you could always reconsider your decision.

Mr. Liebman continues.... (Screen freezes) lost testimony.

Mr. Naveh states he had looked through the meeting of May 23, and explains although it isn't a transcript, I know there were questions back and forth from Board Members as well as myself and I'm not sure there was confusion or misunderstanding when it came time to vote, at least that is his belief. Others may differ in opinion...

Discussion continues....

Mr. Naveh (Chairman) notes there was a discussion regarding a 5 ft. fence and relocation of the fence but when it came time to vote, there was no misunderstanding on his part...

Mr. Lowenstein (Board Secretary) states although they have the authority for reconsideration, he does not believe this rises to the level of a reconsideration. The Applicant did not like the denial. Many questions were asked and it was thoroughly debated by the Board. The applicant took the position she did and it was evaluated. It was a 4-3 vote. He is not in favor of a rehearing.

Ms. Goldstein (Board member) notes testimony of Ms. Berardo regarding the discussion of different heights. It is her recollection, the applicant did not want to consider any of the different options discussed and now wants to come back to reconsider the options offered.

She does not believe it should be reconsidered. She believes this should come back as a new application.

Mr. Zwillenberg (Board Chairman) does not believe this falls within a motion for a rehearing. It comes down to a practical consideration. Are there any of the no votes that think they would change their minds on a rehearing. He does not believe anyone on the Board misunderstood the application. It was fairly clear...he believes a vote should be taken on the no votes.

Mr. Naveh agrees.

Mr. Liebman (Board Attorney) reviews with the Board Members the possibility of a denial vote. They will most likely see another application from the Applicant in the future proposing the 5 ft. fence. The board will have to decide if this is a substantially different application...etc...

Discussion continues...

Ms. Goldstein has concerns on how this will affect other applications in the future? It appears the Applicant has changed their mind and now wants to consider the options suggested at the last meeting and if we do so in this case what future applications will be affected by this?

Mr. Naveh does not believe so but defers to Mr. Liebman for the legal side of it.

Mr. Liebman notes it is not binding. Always based on each individual case and its own merit.

Mr. Naveh opens to Board Members for any other questions. Seeing none,

Mr. Naveh states Board Members will be voting on a reconsideration of vote on Application #22-016. A "Yes" vote will be to rehear the application. A "No" vote would be to let current decision stand as is.

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

Motion carries. 4-3

APPLICATION FOR RECONSIDERATION DENIED.

New Residential Business:

1. Application #22-018, Erika & Samuel Youssof
33-03 Nicholson Drive, Block 2524, Lot 27, Zone R-1-2
Expansion of a non-conforming structure. Ordinance 125-32C (4) permits expansion without variance provided requirements are met-existing non-conforming side or front yard setbacks are not less than 50% of the required side or front yard setbacks, but in no case closer than 12 feet to the existing dwelling on the adjoining property.
Proposed addition. Expansion requires a C-1 variance as per section 125-57D(1)(c)(1). Would increase the building coverage from 26.8% to 28.8% where 25% is permitted. Would decrease the impervious coverage from 49.9% to 48.4% where 35% is permitted. Would maintain the existing front yard setback of 25' where 30' is required. Maintain the existing side yard setback from 7.6' and 6.2' where 10' is required as per section 125-32C (4) and 125-12 Schedule of area yard and building requirements. Far would increase from 18% to 42.7% where 40% is permitted. Requires a D-4 variance as per Borough ordinance 125-57D(1)(D)(1)
Other variances and waivers may be required for this application.

Fees have been paid and there is Proof of Service.

Mr. Naveh (Chairman) asks who is here on behalf of the Applicant this evening?

Mr. Samuel Youssof (Applicant & Homeowner) states he & his wife Erika are the owners of said property, 33-03 Nicholson Drive where an application for a construction permit was made to increase the size of a Cape Cod style home by adding a 2nd floor addition and are both here this evening with along with his Professional Planner, Mr. Michael Kauker, as well as a fact witness who is a neighbor, Richard (last name inaudible)

Mr. Youssof continues. His intent tonight is to outline the variance relief and turn over the presentation to his professional planner, Michael Kauker who will provide expert testimony in regards to the Fair Lawn Master Plan, and why a variance should be granted.

Mr. Youssof requests access to the screen to share the proposal with Board Members Reviews proposed plan. Details lot area, etc...testifies the existing basement and garage area will remain unchanged.... 1st page of plan shows existing versus proposed. Reviews all changes proposed...living room & kitchen is an open plan with the deck, 17x16 ft. off of kitchen, which is less than the 5% maximum allowed.

Mr. Youssof moves to 2nd floor addition and details proposal. Two bedrooms with two full bathrooms/washer and dryer area. Master suite will be in rear of dwelling...

Mr. Youssof explains there were modifications made to the current plans and explains where the master bathroom & walk in closet will be relocated, etc...

Mr. Liebman (Board Attorney) interjects Mr. Youssef's testimony to ask if the plan he is sharing with the Board is not the plan he is proposing? He is confused. Please show what you are building.

Mr. Youssef does have an exhibit of the revised proposal. Shows Exhibit A1 and explains the modifications to the site which is still a work in progress. If application is granted, the architect will submit revised plans to show the changes.

Mr. Liebman asks Ms. Peck if they are missing these plans with their packages.

Ms. Peck (Assistant Zoning Officer) states she never received the revised plans and asks Mr. Youssef if he submitted these plans?

Mr. Youssef testifies he never did submit the modifications; he is submitting them tonight for the first time because the revisions were done after the original first set of plans were submitted.

Mr. Liebman asks Mr. Youssef to please send a copy of these modifications immediately to Ms. Ann Peck, Assistant Zoning Officer's email...

Ms. Peck states she cannot forward the PDF file to Marc or Board Members on the Laptop. Her email address is not set up on it.

Mr. Liebman then states he will forward his email address to Mr. Youssef to forward the PDF file to him.

Discussion....

Mr. Liebman states because he is staying within the footprint there should not be any issues but needs the correct information for the resolution.

Mr. Lowenstein (Board Secretary) would like clarification on what exactly is the plan? Is it their intention to obtain and review these modifications in regards to tonight's application?

Mr. Naveh (Chairman) replies; he would like to see the changes but if the Applicant cannot satisfactorily go through the changes and the Board Members feel they need more time to review...we can carry the application if needed.

Mr. Lowenstein feels he is inclined to go this route.

Ms. Goldstein (Board Member) agrees with Mr. Lowenstein and asks if there is an Architect present tonight for questions.

Mr. Youssef (Applicant) states he does not have an architect this evening, and could provide one if needed, but he does have his planner here to help with any questions if

need be. He can explain how the building will fit into the character of the neighborhood and how it complies with the Master Plan.

Discussion continues...

Mr. Youssof explains the modification. Basically swapping the two rooms. What is now the Master bathroom with one walk in closet will now be converted to an office...

Discussion...

Mr. Naveh clarifies it is Exhibit A2 – 2nd floor they are reviewing with modifications made.

Mr. Youssof reviews design modifications for Board Members.

Mr. Naveh states if there are no other changes to be made in regards to the plan, he feels comfortable with the changes being made but will not speak for other Board Members.

Asks if there are any Board Members who object to moving forward with this application? Seeing none...

Mr. Zwillenberg (Vice-Chair) would just like to comment. He does not feel uncomfortable with the changes on such short notice but in his opinion, it doesn't make much sense putting two bathrooms back to back like that. Maybe speaking to an Architect would help on this one but it's really the homeowner's decision.

Discussion continues...

Mr. Youssof reviews Exhibit A3-Outside Elevation & Design. Hip roof, etc...
Moves to review FAR variance being requested and why it should be granted...

Mr. Youssof completes testimony and states if there are no questions from the Board Members he will turn it over to his Planner, Mr. Kauker.

Before doing so, Mr. Naveh would like to open for questions from Board Members.

Mr. Estersohn (Board Member) questions label on plan? "Irrigation control", & Retaining walls?

Mr. Youssof explains the "irrigation control" is an in ground sprinkler system. In regards to the retaining walls, explains the lot has elevation issues, with a 5ft. slope on rear of property so the retaining walls level the backyard.

Mr. Seibel (Board Member) questions if consideration was given to bringing garage forward and what the implications would be with the impervious coverage if done?

Mr. Youssof explains it would raise more issues so they decided to remain within the existing footprint...

Discussion continues.

Mr. Zwillenberg questions how far the 2nd floor hallway/cantilever will hang out from the structure?

Mr. Youssof explains it will be a 3 ft. extension...details.

Discussion...

Ms. Miller (Board Member) notes the five (5) bathrooms proposed. Questions the need for 5 full bathrooms? One for every bedroom seems like quite a lot...

Mr. Youssof (Applicant/Homeowner) states the intent for the first floor bathroom is because his mother who lives out of state will be moving in with them & occupying the 1st floor bedroom and will need a full bathroom. He explains his wife is an Emergency room nurse and would be using the basement's full bathroom for when she comes home at night. She will be using the washer & dryer and bathroom to change out of her soiled professional clothes & Covid exposure. She is here tonight and can provide testimony if need be.

Ms. Miller speaks to the issues on the 2nd floor. Clarifies the need for the washer & dryer upstairs is for normal regular washing & cleaning...noting the two bedrooms proposed, suggests eliminating some of the bulk issues by eliminating one bathroom and maybe sharing a bathroom? Asks the reason for 2 bedrooms?

Mr. Youssof testifies he currently has one child and would like to have more in the future but in the meantime it would be used as a guest room.

Discussion of design continues...

Ms. Goldstein (Board Member) asks Mr. Youssof if he is a licensed Architect? A licensed Engineer?

Mr. Youssof replies; he is not an Architect, but does have a degree in civil engineering.

Ms. Goldstein continues. Is he licensed to do either? The Board is asking him a lot of questions...asks if he has considered making small changes to eliminate some of these variances?

Discussion...

Ms. Goldstein reviews impervious coverage. Although lowered, he is still over. Is there anything you can do to bring down to the requirement?

Mr. Youssof discusses installing a dry well. He could have plans drawn and have Board Engineer review them as a condition of approval if application is approved.

Discussion continues on size of home. Ms. Goldstein has concerns, stating other homes in the surrounding areas are not as large in bulk.

Ms. Goldstein questions the fence and a structure on the lot? Is this the neighbors or yours? All these minimal things you speak of add up...

Mr. Youssof explains the structure showing is a shed in which he did just recently get a permit for. November 2018. A dry well should help with the impervious...

Discussion continues...

Ms. Goldstein states; although she appreciates Mr. Youssef's well versed about his house and knowledge of his plans, the questions they are asking are still questions that need to be answered by an Engineer or Architect.

Mr. Lowenstein (Board Member) questions Mr. Youssof on his current standing as an Attorney. If he is in good standing, etc...

Mr. Youssof testifies he is in good standing and works for the firm, Brook & Burns.

Discussion continues...

Mr. Lowenstein questions the size of the shed in his backyard.

Mr. Youssof testifies, $9 \frac{3}{4} \times 17 \frac{1}{2}$ ft., less than the 200 sf. that is permissible.

Mr. Lowenstein questions the need for this size structure?

Mr. Youssof testifies it was a labor of love for his wife as a Garden shed and tool shed. States there is no intended use for habitation. Explains once the renovations are completed on the garage, it will be used for motor vehicles and currently whatever is stored in the garage now will be stored in the shed.

Mr. Lowenstein asks if the shed is air conditioned?

Mr. Youssof states yes. It was part of the electrical permit. Explains how it gets quite hot.

Discussion and clarification on the amount of electrical circuits in the shed.

Mr. Lowenstein questions if there is water service or any kind of plumbing installed?

Mr. Youssof testifies no.

Mr. Lowenstein mentions the large windows and double doors?

Discussion continues...

Mr. Youssof states he did submit pictures.

Mr. Lowenstein asks; based on the size, it did not require coming before the Board?

Mr. Naveh (Chairman) defers this question to Ms. Peck.

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

Ms. Peck explains when checking the file, she could not find the physical copy of the permit, but the ledger kept in the building department does show a permit was issued in 2018 for a shed. Now that a statement was made regarding electric, she must have missed that upon speaking to the homeowner. There is an open permit from 2022.

Ms. Peck asks Mr. Youssof if the electric permit a current one?

Mr. Youssof states he obtained the permit several weeks ago. The permit was in the window.

Ms. Peck asks if he has a copy of the “inspection sign off” of the work completed from the Building Inspector?

Mr. Youssof testifies he was never contacted for an inspection and is ready for an inspection.

Discussion continues.

Mr. Lowenstein (Board Member) asks Ms. Peck if there is anything in the file in reference to impervious coverage in conjunction with the shed?

Ms. Peck states she could not answer this right now without access to the files.

Mr. Lowenstein comments he has real concerns regarding impervious coverage and this shed affects the number. Although he still is coming down in the numbers, it still is way over. States Mr. Youssof made a lot of argument pertaining to lot size, house size, etc. if it only conformed.... Mr. Lowenstein does not feel this is a good enough argument...

Mr. Zwillenberg (Vice Chairman) asks Ms. Peck if there is anything in the file that allowed this impervious to go so far?

Ms. Peck speculates back in 1969 a rear addition was built...

Discussion continues...

Mr. Zwillenberg clarifies the size of the bedroom to the left. Considers it a small bedroom and suggests taking the bathroom out and using the space to enlarge this bedroom.

Mr. Berow (Board Member) following up on Mr. Zwillenberg's comments, questions Ms. Peck. "It seems the shed that was built a few years ago needed a variance for impervious coverage as it currently contributes to the high impervious number. Wonders how it got past them? If it did come before the Board, he would like to hear what comments or conditions may play a role in decision making at this point.

Ms. Peck (Assistant Zoning Officer) replies; there is no variance of any kind on this property. As far as the shed, she does not know who approved it. She would have to check the files. etc.

Mr. Berow defers this question to Mr. Youssof being he was the homeowner at the time.

Mr. Youssof (Applicant/Homeowner) testifies he was the homeowner at the time. States he submitted the application for the shed with a survey along with the dimensions, etc. to the Building Department and it was approved.

Mr. Berow feels like there is some piece of information missing in this...

Mr. Naveh (Chairman) refers to pictures submitted. Looking at the one reflecting shed and retaining wall, asks Mr. Youssof to please tell us the condition of the property when purchased? Was this area empty? Did it have a shed? Was it grass?

Mr. Youssof testifies when home was purchased, the backyard sloped down. Explains the water was collecting at the bottom so they leveled the earth and stopped the issue of the puddling and then got the permit for the shed...

Mr. Naveh clarifies the entire rear yard was grass & sloping with no walls and no shed? Asks Mr. Youssof when the walls were built?

Mr. Youssof purchased home in 2017. In 2018 started the walls. Same time as the shed.

Discussion continues...

Mr. Naveh questions if pooling still happens and if so, what location?

Discussion.... Mr. Youssof explains where the pooling still exists.

Ms. Peck interjects testimony to state she has a 2005 permit from the prior owner attached to a survey. It shows the driveway was much more narrow. Apparently the homeowner extended the driveway without permission. There was also a patio to the right on the survey. Maybe this is where all the accumulation of impervious coverage came from?

Discussion...

Mr. Naveh questions the means of access to this shed. Is he planning to put any kind of access or entrance?

Mr. Youssof refers to A-03 Exhibit. New proposed steps at the same level of the higher elevation of the rear yard...explains.

Mr. Naveh clarifies. He is a little confused with the drawings...

Mr. Youssof clarifies for Mr. Naveh being more detailed.

Mr. Berow (Board Member) questions Mr. Youssof on the basement space. Notes a lot of livable space? Asks Mr. Youssof if there is any intention in the future for a private dwelling for anyone? Clarifies there is no egress or separate entrance way?

Mr. Youssof testifies there are no intentions for a private dwelling and there are no plans for a separate entrance to the basement.

Mr. Lowenstein questions size of deck.

Mr. Youssof states 16 x 16. Notes it's under 5% allowable.

Mr. Lowenstein questions Ms. Peck (Assistant Zoning Officer) on this asking for more clarification on these dimensions and if in fact it is under the 5% allowable? Do you have cause for concern on this?

Ms. Peck states she does not see any and recalculates. Testifies it is under the 5% allowable.

Mr. Youssof is willing to change the deck size as a condition if Board Members see fit. He has no issue with this.

No further questions from Board Members.

Mr. Naveh opens the application 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 the witness. Seeing none, Mr. Naveh closes this portion.

Mr. Youssof has completed his testimony and calls his Planner, Mr. Michael Kauker to testify.

Mr. Liebman (Board Attorney) swears in Michael S. Kauker, from the firm Kauker & Kauker, LLC. 356 Franklin Ave; Wyckoff, N.J.

Mr. Kauker is certified as an expert in the field of Planning with no objections from the Board.

Mr. Kauker begins his testimony by stating the unique character of the neighborhood and the undersized lots. Regular requirement being 75 x 100. Average on this block and vicinity are 50-56 ft. in width...

Mr. Kauker continues...speaks to FAR proofs and refers to a similar case called in Randolph Township. Explains...property remains appropriate to accommodate the changes proposed on site. It benefits the general welfare and Master Plan of the municipality.

Testimony continues...speaks to the benefits of the changes. The porch and roof benefits the appearance of the neighborhood. The building itself is a one-story cape of minimum size. Speaks to the Master Plan. Homes in this area were built in the 1950's. Feels the application would benefit the neighborhood...lead to a positive trend.

Mr. Kauker continues his testimony in regards to the benefits of the proposed plan. Refers back to the Applicant's testimony regarding building coverage and impervious coverages. Speaks to the C-1 variance, refers to the MLUL. Respectfully disagrees with his client's characterization...explains. He would proffer a C2 variance. Explains...the reality of the fact for the consideration & approval of the application allows a substantial increase in the size of the buildings both for FAR & building coverage...in this context the Master Plan for this zone allows for the encouragement of building two-story homes.

Testimony continues...Applicant has the right to build a two family. Refers to Ann Peck's helpful testimony where there were several improvements over the years. Whether they were approved or not affecting the impervious coverage...

He is more positive and based on the facts of the application feels a C2 variance is a more appropriate fit given the context of the building coverage and FAR and in support of this application...

Mr. Kauker completes his testimony.

Mr. Naveh (Chairman) speaks to the FAR and asks Mr. Kauker if he believes this increase is consistent with the Master Plan's goals or interferes?

Mr. Kauker (Applicant's Planner) does not believe it interferes.

Discussion ensues....

Mr. Kauker states the requirement is 40% greater than actual lot area...this Board having a great deal of experience over the years understand the smaller the lot, the greater the FAR. He does not believe the FAR in this application is not substantial and does not interfere.

Mr. Naveh reviews the Master Plan with Mr. Kauker where it suggests modifications. Points to the fact, it suggests lowering or staying within the requirements. Mr. Naveh disagrees with Mr. Kauker's view that this is an advancement in both the Master Plan in regards to the FAR.

Mr. Lowenstein (Board Secretary) questions the calculations regarding impervious coverage. Clarifies the proposed is 48.4% where 35% is permitted, so coverage proposed is 13.4% which exceeds limit by 38%?

Discussion.... Mr. Kauker reviews calculations and agrees with Mr. Lowenstein's figure.

No further questions from Board Members.

Mr. Naveh opens the application 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, Mr. Naveh closes this portion.

Mr. Youssof (Applicant/Homeowner) states he has no other witnesses and gives a short summary of why the application should be approved. Understands the Board's concerns regarding impervious coverage and will install a dry well, etc.... respectfully requests the granting of this application.

Mr. Naveh (Chairman) asks Mr. Youssof if there are any other areas in the plan besides the dry well where you would like to remove?

Discussion...Mr. Youssof testifies he is willing to work with removal of walkway or driveway?

Mr. Naveh tells Mr. Youssof, he would have to tell the Board what he wants to remove as a condition of approval.

Mr. Youssof offers the existing Pavers in front of home. The front walkway could be reduced. The driveway could also be reduced to a two car driveway...we can condition it on doing a minimum size driveway.

Mr. Naveh appreciates what he is removing states the Board needs to know specifically what is to be removed, how much of an area, etc.

Mr. Youssof states he cannot be precise about the square footage without coming back next month. He can say another 300 square feet on the driveway with the walkway combined if accepted by the Board?

Mr. Naveh defers to the Board Attorney for his thoughts and recommendations.

Mr. Liebman (Board Attorney) offers his thoughts to Mr. Youssof to consider...

States Mr. Youssof got a lot of feedback & commentary from the Board this evening regarding the shed. The Board did not like the shed. You have a substantial house here with a substantial FAR. While maybe there are similar developments in the neighborhood, each application stands on its own.

Mr. Liebman continues...He had comments on how many bathrooms are in the home, the size of the bedrooms, etc. You have a closet proposed on top of the vestibule in the front of the home which some may consider unnecessary, adding to the Bulk...the FAR.

Mr. Liebman explains to Mr. Youssof once the Board votes on this application, if denied, he would have to come back before the Board with a substantially different application. With these comments said, he may want to think about how he would like to proceed and whether or not he would like to go forward tonight with a vote.

Mr. Youssof appreciates the insight and has greater clarity on the Board's position. He thinks he would like to go back to their architect and address the Board's concerns. Asks if he may carry the application to the next meeting and submit new plans with the Board's feedback taken into account.

Mr. Naveh (Chairman) suggests bringing his Architect to the meeting so the Board could get more specific answers if need be.

Mr. Youssof agrees.

Discussion on availability of next meeting.

Mr. Liebman asks Mr. Youssof for a waiver for the time limit for the record.

Mr. Youssof agrees.

APPLICATION CARRIED TO THE MEETING OF JULY 25, 2022. NO FURTHER NOTICE REQUIRED.

Mr. Naveh calls a recess.

Mr. Naveh re-opens Meeting. 9:18pm

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

Ms. DeLuca recuses herself from the following Application.

1. Application#22-019, Richard Blanchard

49 Pomona Avenue, Block 6803, Lot 1, Zone R-1-3

Reasons for Denial: *125-18 Definition*

DWELLING UNIT-One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DETACHED SINGLE-FAMILY- A dwelling that is not attached to any other dwelling by any means and occupied by a single family.

TWO-FAMILY - A building on a single lot containing two dwelling units, each of which is separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

“Proposal is to create a separate dwelling unit within the existing one family dwelling for a family member not to be used as rental unit.

Proposed renovations would create a separate dwelling unit within the existing structure, creating two dwelling units in a single family dwelling.

Would not meet the definition of a two family dwelling as there are separate entrances and a door separating the two units. Two family are not permitted within the R-1-3 single family zone.” Two family dwellings are not permitted in the R-1-3 as per Borough Ordinance 125-17 A.

(1) 125-57D.(1)(c)(1) Other variances and waivers may be required for this application.

Fees have been paid and there is proof of service.

Mr. Naveh (Chairman) asks who is here on behalf of the Applicant?

Mr. Richard Blanchard states he and wife Jamie along with their Architect, Lisa Cohen.

Mr. Blanchard clarifies they will let the Architect speak on behalf of them.

Mr. Liebman swears in Lisa Cohen, LMC Architecture
21-03 Radburn Road
Fair Lawn, N.J.

Ms. Cohen is certified as an expert in the field of Architecture with no objections from the Board.

Ms. Cohen begins her testimony stating they are here before the Board planning a renovation. A 499.4 sf. side addition with a 2nd story. The variance has to do with the side addition.

Ms. Cohen explains they have gone above and beyond trying to be sure everything within this design meets all the Zoning requirements and it does. However, the programming for the new side addition is a separate area for the mother-in-law to live in. They are hoping to have inter-generational living which is a current trend right now.

Ms. Cohen continues...The proposal is so she can have her own independence, come and go as she may with her own kitchenette, laundry room, bedroom and living space but still be connected to the main dwelling where her grandchildren are and for whom she will be caring for.

Ms. Cohen states they are asking the Board for special permission to allow this additional dwelling unit with the understanding the applicant has no intention ever to use this as a rental. It will strictly be used as inter-generational living.

Mr. Naveh questions the existing garage/shed? Would like to know the usage of the structure. Tried to look in today while at the property and it was solid all around, he couldn't see in.

Ms. Cohen explains the existing structure was damaged and refurbished after a tree incident. She would say it's the equivalent of a pool cabana without the pool. It has a refrigerator and bar type space. She has photos if the Board would like to see them.

Ms. Cohen shares the screen with Board Member's to show photos. Shows interior. Bar counter. No plumbing. It is non-habitable space.

Lot size is discussed. Oversized.

Ms. Cohen has nothing further to add but will answer any questions the Board may have.

Mr. Liebman (Board Attorney) asks how many utility meters are on this property?

Ms. Cohen believes there is one but will confirm with Mr. Blanchard.

Mr. Liebman would like to swear Mr. Blanchard (Applicant) in.

Mr. Liebman swears in Richard Blanchard and clarifies his wife's name, Jamie Blanchard for the record.

Mr. Liebman clarifies with Mr. Blanchard. Currently only (1) Water meter, (1) Gas meter, (1) Electric meter at the residence?

Mr. Blanchard testifies yes.

Mr. Liebman then asks Mr. Blanchard as part of this work, it will remain the same?

Mr. Blanchard testifies yes.

Mr. Liebman questions the (1) mailbox. Will this remain the same?

Mr. Blanchard replies yes, currently there is a slot on door, but we will have to eventually get a mailbox since there is someone else living in home.

Mr. Liebman asks Mr. Blanchard if he understands, as a condition of approval, if the application is approved, this condition will remain as such and will never have more than one utility box or mailbox on this property?

Mr. Blanchard understands and agrees.

Mr. Naveh (Chairman) would like to know how many entrances will there be after the construction?

Ms. Cohen (Architect) replies they will be maintaining the front entrance and a new private side entrance with both having access to the deck.

Mr. Naveh asks how many vehicles are currently in the home?

Mr. Blanchard testifies to two but explains the 3rd vehicle at the home was belonging to his Mother-in-Law which was parked at the house during vacation.

Mr. Naveh asks questions the garage and if it could store a vehicle?

Mr. Blanchard replies; currently being used as storage space but could use it in the future for a car.

Mr. Estersohn (Board Member) questions the denial notice regarding dwelling not meeting the definition of two families? Asks for clarification from Ms. Peck (Asst. Zoning Officer)

Ms. Peck explains...

Mr. Liebman (Board Attorney) backs Ms. Peck by stating this is a tricky issue. Discusses past applications, Zoning codes/mother/daughter set-up's, etc...as long as interior is connected, it's a one family home.

Mr. Liebman continues. The building department is reluctant to give permits allowing this because it could easily be converted into a two family, this is why conditions are added and stipulated. This is why it comes before the Board to tell the applicant straight away you cannot ever make this a two family home. We may even have to put a Deed Restrictions in as an approval...so when someone else buys it, they can't say they didn't know. That's why all these questions regarding gas meters, water meters, electric boxes, mailboxes come up so if these conditions were ever violated, it would cause the Resolution to lapse.

Ms. Cohen (Architect) clarifies this application is calling for a door between the two.

Mr. Liebman takes a moment to clarify with Mr. Blanchard the understanding that the door separating the two units can never be a wall.

Mr. Blanchard understands and agrees.

Mr. Zwillenberg (Vice-Chairman) mentions the prior applications regarding Mother/daughter units & requests with a motion of approval that a Deed restriction be filed.

Discussion...

Mr. Blanchard agrees to this condition if approved.

Ms. Cohen (Architect) asks if this needs to be done before Resolution?

Mr. Liebman states no.

Mr. Lowenstein (Board Secretary) questions a shed like structure in rear of property?

Mr. Blanchard explains it is for moving things out of the house for storage when construction begins and it will be removed once construction is completed.

Mr. Lowenstein questions Ms. Cohen about the stairs on deck. Will these be remaining?

Ms. Cohen explains the deck will be constructed entirely and will have stairs to the left.

Mr. Lowenstein would like to know dimensions of large structure in rear?

Ms. Cohen states 16 x 11.

No further questions from Board Members.

Ms. Cohen (Architect) asks for the Board's approval with the understanding the Homeowners agree to all conditions stipulated.

Mr. Naveh opens the application to Residents living within 200ft. of the Applicant for questions.

Mr. Naveh opens to the General Public for questions or comments. Seeing none,

Mr. Naveh closes this portion and asks for a motion.

Mr. Estersohn makes a motion to approve the application with all conditions.

Ms. Goldstein seconds the motion.

VOTE: Ms. Goldstein, Mr. Estersohn, Mr. Seibel, Ms. Miller, Mr. Lowenstein,
Mr. Zwillenber & Mr Naveh- **YES**.

Motion Carries

APPLICATION APPROVED WITH CONDITIONS.

Public Comment: None

Memorialized Resolutions:

1. **Application #22-014,-** Susan Hao & Chunbo Wang
9-14 Burbank Street, Block 4523, Lot 3, Zone R-1-3
Proposed addition. -Approved w/ condition. - ***Approved***

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

All Present: **AYE**

2. **Application #22-015-** Stacy Scimanico & Garrett Davin
7 Prescott Place, Block 1308, Lot 4, Zone R-1-2
Proposed Addition- Denied. – ***Approved.***

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

All Present: **AYE**

3. **Application # 22-017-** 6-09 Christie Place, LLC.
6-09 Christie Place, Block 3521, Lot 5, Zone R-1-3
Proposed addition w/condition. - ***Approved.***

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

All Present: **AYE**

Minutes:

Mr. Lowenstein makes a motion to approve the minutes as amended for **May 23, 2022** and Ms. Goldstein seconds the motion.

VOTE: All Present- **AYE**

Adjourn:

Mr. Lowenstein makes a motion to adjourn and Mr. Tratner seconds the motion.

VOTE: All Present: **AYE**

Time: **9:45pm**

Respectfully submitted,

Cathy Bozza
Zoning Clerk