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## 30 YEAR ANNIVERSARY

Karl Gerckens has been creating beautiful kitchens for 30 years



Alex Taner for The Scotch Plains-Fanwood Times  
NEW DAY CARE CENTER?...Four experts are sworn in by the Mountaineer Board of Adjustment regarding the application for a new day care center on Springfield Avenue.

### Judge Rules The Pointe Not Entitled to Snow Removal

By CHRISTINA M. HINKE

Specially Written for The Scotch Plains-Fanwood Times

GARWOOD – New Jersey State Superior Court Judge Karen Cassidy, the assignment judge for Union County, has ruled that The Pointe, a 44-unit age-restricted condominium complex, is not entitled to snow and ice removal by the borough because she deemed that the “area in question was not a road but a driveway not subject to the Municipal Services Act.” In her decision, the judge said the area in question, Chestnut Court and Maple Court, “does not provide circulation or access to other roadways” but rather access to The Pointe residents’ parking spaces and garages. “We are disappointed. We feel we are being treated like second-class citizens,” Roswitha Metz, a homeowner and also treasurer of the board at The Pointe, told *The Westfield Leader*.

On March 10, 2011, The Pointe billed the borough for \$54,524 in snow removal costs for the period of 2008-2010. Since the borough did not reimburse The Pointe, The Pointe responded with a lawsuit filed May 31, 2011. The borough decided to litigate, resulting in hourly charges billed by Borough Attorney Joseph Triarsi summing \$15,655, according to his law offices’ bill that was retrieved through an OPRA request.

“That is ridiculous. We are not talking about roads and roads and roads. We were only talking about the middle of the street [of Chestnut and Maple Courts]. It is a minimal amount [of plowing] and for Garwood to spend \$15,000 to litigate—that is absurd,” said Ms. Metz.

Since the lawsuit was filed, residents of The Pointe have spoken out at borough council meetings, stating the residents at The Pointe pay about double the taxes, about \$12,000 to \$14,000, of the average taxpayer in Garwood. In its legal argument, The Pointe relied on the Municipal Services Act, which was written to protect condominium dwellers, such as The Pointe residents, from double taxation. The Pointe residents have argued that they pay taxes and condo fees and also pay for private snow removal.

“Even if it is a private community, according to the Municipal Services Act, they [the borough] are supposed to reimburse you for part of it [snow removal]. We pay half a million dollars a year to Garwood. That is what I am upset about more than anything,” Tom Pedas, a resident of The Pointe, told *The Leader*.

“The residents sadly do pay high taxes but that is a result of the market at the time of the purchase of the property. New construction taxes are based on the sale of property and some of those townhouses at the time were selling for close to \$600,000,” Borough Clerk Christina Ariemma told *The Leader* in an e-mail.

“However, I do feel for these people in this situation. Let’s not neglect the fact that the only service not being provided is snow removal on what the judge determined to be a ‘private driveway/road.’ We do provide them services and no one ever mentions that,” she said.

The municipality provides The Pointe garbage, recycling, leaves and grass pickup, Ms. Ariemma said, as well as street lighting in the areas that are not private. Ms. Metz said The Pointe pays for the electricity of the street lamps on Chestnut Street and Maple Street, which are municipal streets.

Gudrun Minton of Maple Court in The Pointe said at last week’s council meeting, “Here in Garwood we are being shortchanged. 512 Maple Court, you would think that

is a street, but the city decided it is a driveway and we are not getting the basic services you are talking about. This is not fair. We are paying the highest taxes in this community—we should be getting something.”

The plaintiff, as stated in the ruling, said that Chestnut Court and Maple Court “allow for two-way traffic and has a fire lane.”

Testimony at the hearing by plaintiff witnesses Mark Epstein, chairman of the Association at The Pointe, and Russell Fernandez of Bechtel Engineering, and defendant witnesses, Police Chief Bruce Underhill and Borough Engineer Victor Vinegra, were used in the basis of the court’s decision, as well as case law *Bligen versus Jersey City Housing Authority* as introduced by the defendant and case law *Stonehill Property Owners Association versus Township of Vernon* as introduced by the plaintiff.

In the *Bligen* case, “...the court held that a driveway located within the housing authority did not fall within the Municipal Land Use Law’s definition of a ‘street’...”

The plaintiff had argued the *Bligen* case law was inapplicable and had cited case law *Stonehill Property Owners Association versus Township of Vernon* that found a paved area providing access to vehicular traffic from public streets to private homes is covered under the Municipal Services Act.

At the May 8 council meeting, William Connolly of Maple Court in The Pointe, said, “The only access for an ambulance is Maple Court. The only way a fire engine can get to me is through Maple Court. The only way a police officer in a patrol car can respond to an emergency in my unit is through Maple Court. Nonetheless, Garwood deems Maple Court to be something less than a public street. I think that is unfair.”

“This case was closely watched by other municipalities here in New Jersey, as this situation has come up in other towns who are confronted with the question about access to condo neighborhoods who have signs warning non-residents to ‘keep out’...these residents cannot have it both ways. If my town is expected to plow your private road, our kids should be allowed to skateboard there and ride bikes and teachers should be able to park their cars there,” Mayor Patricia Quattrocchi told *The Leader* in an e-mail.

### Scotch Plains Accident

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Mohn said, “The noise of her hitting it caused everyone to run and get out of the way. After the SUV bumped into the girl, (the Malibu) came through the truck and took out about four tents, eight tables and lots of produce. Her car was sitting on top of tents and tables.”

Ms. Mohn told *The Times* that she had spoken with the woman’s employer – Bake You Crazy of Berkeley Heights – and that she had “suffered from a sprained ankle.”

“We have never had an incident like this in the 21 years of the market – it was a freak accident,” Ms. Mohn said. “Safety is a big issue, and we want everyone to be safe, so I am planning to meet with a membership of the SPPD to discuss potentially blocking off more than one lane for vendors and patrons and not having as much parking so close to the vendors.”

“We don’t want people to be scared. We still want our farmers’ market to thrive,” she said.



TOBACCO FREE...Rep. Leonard Lance meets with the Wheatley family of Westfield after Sara’s poster was chosen as the 2012 State of New Jersey winner of an important tobacco-free educational campaign and contest. Pictured, left to right, are: Matthew Wheatley, Maria Suarez, Anabel, Emmy and Sara Wheatley and Rep. Lance.

### WF Student Congratulated By Lance for Winning Contest

WASHINGTON, D.C. – Rep. Leonard Lance (R-7th) met with Sara Wheatley, 10, of Westfield in his Capitol Hill office this week. During the meeting, Mr. Lance congratulated Sara as the 2012 State of New Jersey winner of an important tobacco-free educational campaign and contest.

The nationwide contest, known as “Tar Wars,” is a tobacco-free education program for fourth and fifth graders presented voluntarily by family physicians and other healthcare professionals to public and private schools within their communities. As part of the contest, students create a poster dis-

playing a positive message regarding what they have learned about the importance of being tobacco-free.

“I was pleased to meet with Sara and her family and commend her for her participation in this important national tobacco-free educational contest,” Mr. Lance said. “Sara is a very bright, dedicated and talented young person who cares about the safety, health and well being of her friends and members of her community.”

Sara is the daughter of Maria Suarez and Matthew Wheatley of Westfield. She attends Franklin Elementary School in Westfield.

### SP Board of Adjustment

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the second story of the proposed garage.

Mr. Auriema said they would take that garage space and make it habitable, and use the upper story of the new garage for storage. Mr. Auriema stated that besides working at his electrical business, he and his brother, repair old bikes and small machinery. Mr. Loughlin asked if he was proposing a running a business on the site. “No,” Mr. Auriema replied.

Several neighbors testified on Mr. Auriema’s behalf, saying any work done to the house has been with in keeping with the neighborhood and looks “classy.”

Mr. Auriema’s backyard neighbor, Gene Setti, who is represented by Attorney Brian Schwartz, objected to the height of the proposed new garage. He said he uses his yard and he now has a view, and that a two-story garage would obstruct that. He was told that trees would be planted to hide the two-story structure. Mr. Setti, a landscaper, said no trees are going to grow fast enough to obscure the height of that garage. Mr. Schwartz also questioned having two large structures (the home and the two-story garage) on the lot.

Mr. Loughlin asked the size of the proposed second story in the new garage to which Mr. Giambalvo said it would be 1,000 square feet, and the garage, itself, 1,350 square feet. “I don’t think that is permitted in a R-1 zone (residential),” said Mr. Loughlin. He continued, “I haven’t heard anything about imperious surface, the pool, the cabana, the two-story garage. I’m very troubled.”

“The board has to have better definitions of the proposals about the maximum ground coverage and the impervious ground cover,” Mr. Loughlin said. He also said he was troubled by conflicting testimony by the husband and wife concerning continued use of the front driveway and wanted to know the sequence of construction.

Richard Cohen, the Auriema’s attorney, agreed to resubmit the application.

In other business, Ernest Fantini, Sr., who owns 444 Myrtle Avenue, a two-family house with a single-family house on the property in a R-3-A zone on the northwest side of Myrtle Avenue, is seeking a (d) variance to make an addition to the single-family house. He wishes to build a work storage area (two rooms) separated from the house by a breezeway. Mr. Fantini was represented by his son, Ernest Fantini, Jr. and his attorney, Larry Bostola.

Mr. Bostola stated that Mr. Fantini owns many properties in the area, and that his son works in business with him. Mr. Loughlin said the application is not appropriate if the homeowner is not present to testify. Mr. Bostola insisted that his client could not be present and that his son was familiar on the specifics of the application.

“The testimony of the son would be an exception to the rule. This is a significant case. I don’t think it would be

appropriate to proceed,” Mr. Loughlin said.

Board chairman Ken Anderson asked Mr. Bostola if his client would be available to testify at the September meeting. Mr. Bostola said he would so the application will be revisited at that meeting.

Evangel Church of 1251 Terrill Road is seeking to build an above ground fuel tank and a backup generator to be placed on top of it for power supply in case of a power outage.

Christopher Marinello, church business administrator, said, “We want to protect our water lines from freezing.” The structure would be placed on an 18- by 18 ft. pad. “The fuel tank we want is 950 gallons,” Mr. Marinello added. The generator would have to run for 48 hours at a time once a week. He said the church would follow all state and federal regulations. Township code says that the tank cannot exceed 660 gallons. The generator is sit on top of the fuel tank. The structure would be shielded by evergreens and a fence.

Board member Rich Druthie said the board did not have the necessary data to grant the application.

The church’s attorney, Anthony Marra, said the church would prepare a new application to submit to the board.

William and Susan Dixon of 359 Stout Avenue are seeking a d variance to repair their garage, which they say needs a new door, aluminum siding and a new roof. They were advised by Mr. Loughlin to bring any bid proposals to the building department and return before the board in September.

Sandy Atienza of 2401 Westfield Avenue is seeking a c variance to add a 10-foot by 19-foot addition to his house, which would have a door directly into the garage. Board members said Ms. Atienza would need to submit a proper floor plan.

Board member, Dan Sullivan said, “I don’t have the slightest idea of what you are putting in both rooms.”

Ms. Atienza was also told to resubmit her plan.

### Freeholders

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of the disciplinary charges, reimbursement for lost pay and benefits, payment of legal fees and compensation damages.

In freeholder sponsored resolutions last week, the board is to award \$4,000 each to the General Casimir Pulaski Parade Committee, Linden, and to the Our Lady of Mount Carmel Society, Berkeley Heights. The Pulaski Parade will be held Sunday, October 7, down Fifth Avenue in New York beginning at 12:30 p.m. The Feast of Our Lady of Mount Carmel was held July 12 to 16 in Berkeley Heights.

Last month, the board approved \$18,000 in funding for festivals and a concert series.



P. Justin Fahey for The Scotch Plains-Fanwood Times  
POP CULTURE...Harry Cohen, left, discusses his plans for his pop-culture museum in Springfield following the Board of Adjustment’s approval at its meeting on Tuesday.

### Courage to Reconnect

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the state to have a consolidation study done. If that study is conducted, the results would then be available to the public, and a referendum to combine the towns of Scotch Plains and Fanwood would be voted on.

“The majority of people from both towns would need to want to connect,” Mr. Lange said.

Once the hearings are done, Mr. Vaz will prepare a report to be reviewed by the state’s Local Finance Board, which will ultimately decide if a consolidation study should be conducted.

When the floor was opened to questions, a Fanwood resident asked who would be responsible for paying for the consolidation study.

“The state does not fund the efforts of the groups; it would be up to Mr. Lange’s group (to raise the money),” Ms. Genovese responded.

When asked by another Fanwood resident what the real advantages of consolidating would be, Mr. Lange said that a shared-services study conducted by the two towns themselves indicated that there is a potential savings of \$2 million annually for both towns.

Several residents voiced unfavorable opinions regarding petitions that were circulated throughout the community to garner support for CTR-SPF, stating that their neighborhoods were not petitioned, and that when the petition was presented to residents it was unclear what it was they were being asked to sign.

“We had an issue with the petitions,” said Fanwood Mayor Colleen Mahr, who was in attendance. “If the people (of Fanwood) had come to me to discuss consolidation, we would have had the conversation, but no one did.”

“In Fanwood, there isn’t a lot of confidence in this process because of the way it has been conducted,” said Fanwood Councilman Robert Manduca, who also was in attendance.

When questioned by a Fanwood resident about what criteria is used by the Local Finance Board to make the

decision to approve the application to create a study commission, and how the commission would be appointed, Mr. Vaz stated that there has not been a lot of consolidations done in New Jersey.

“This is different than Princeton, where the governing bodies of the two municipalities filed for the application,” Mr. Vaz said. “The Local Finance Board will not make recommendations about the commission – they just approve or disapprove the application based on the signatures obtained on the petition.”

Mr. Lange collected 352 signatures from more than 7,000 Fanwood residents.

“If CTR-SPF can’t raise the money for the study, then there is no study. If you do go through the process, and the projected savings is small, then it’s going to get voted down,” Mr. Goerner said. “But you have to go through the process to know.”

“The Finance Board should not approve this petition,” a Fanwood resident stated. “It’s not the right time. It’s not the right people. It’s not the right process.”

### FW Council

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the council and express their views. Mr. Huegel said, “I have never witnessed anybody coming podium and voicing support for this.”

Residents interested in viewing a draft of the Local Finance application can do so at <http://spfreconnect.wordpress.com/application/>

In less controversial news, the council welcomed two new fire department volunteers, Anthony Grasso and Zach Weissglass.

Fanwood Lions Club President David Trumpp presented \$100 to the Fanwood Volunteer Fire Department, \$300 to the Fanwood Rescue Squad and \$300 to the Fanwood Recreation Commission and thanked the community for supporting the Lions Club.



Brooks Crandall for The Scotch Plains-Fanwood Times  
RAZZ MATAZZ...The Chuck Lambert Band entertains the crowd at the Sweet Sounds Downtown Jazz Festival Tuesday night on the north side train station parking lot lawn in Westfield.



Brooks Crandall for The Scotch Plains-Fanwood Times  
JAZZ NIGHT...The Glenn Alexander Group with Orio Apsen entertain the crowd at the Sweet Sounds Downtown Jazz Festival Tuesday night at the corner of East Broad Street and North Avenue in Westfield.