

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Reorganization Meeting Minutes – January 4, 2024 7:15 pm**

The meeting was called to order at 7:15 pm by Mr. Lehder, with the reading of the Open Public Meetings Act Statement (below) and salute to the flag.

Roll Call:

Present: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Kinsella, Schiavetti, Lehder

Absent: None

Also Present: Mr. Kovats, Board Attorney; Mr. Rizzo of CME, Board Engineer; and Councilwoman Cole

Board reorganization:

Mr. Lehder opened the meeting with the re-appointment of Dr. Laufer and Mr. Kinsella to the Zoning Board. Mr. Kovats read the 2024-03 Resolution dated January 2, 2024, that appointed Dr. Laufer to a 4-year term, Mr. Kinsella as Alternate #1 to a 2-year term, and Councilperson's Cole and Koch to 11year terms as liaisons.

Mr. Kovats administered the Oaths.

MOTION by Mr. Neczesny and second by Mr. Kinsella to appoint Mr. Lehder as Chairman.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Kinsella

Opposed: None

Abstain: Schiavetti, Lehder

Absent: None

MOTION by Dr. Laufer and second by Mrs. D'Angelo to appoint Mr. Neczesny as Vice Chairman.

In Favor: D'Angelo, Ridgeway, Ryan, Forte, Laufer, Kinsella, Lehder

Opposed: None

Abstain: Neczesny, Schiavetti

Absent: None

MOTION by Mr. Neczesny and second by Mr. Kinsella to appoint Sheilah Olson as Zoning Board Secretary for 2024.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder

Opposed: None

Abstain: Kinsella, Schiavetti

Absent: None

Mr. Lehder changed the order of the meeting and introduced the following items: *Approval of Meeting Dates for 2024 and Approval of Official Newspapers.*

MOTION by Mr. Lehder and second by Mr. Neczesny to approve the following meeting dates for 2024 and reorganization meeting in January of 2025:

February 1, 2024  
March 7, 2024  
April 11, 2024  
May 2, 2024  
June 6, 2024  
July 11, 2024  
August 1, 2024  
September 5, 2024  
October 10, 2024  
November 14, 2024  
December 5, 2024  
January 9, 2025 (reorganization/first meeting 2025)

All meetings commence at 7:15 pm at Borough Hall.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None  
Abstain: Kinsella, Schiavetti  
Absent: None

MOTION by Mr. Lehder and second by Mr. Neczesny to adopt as official publications, the Asbury Park Press, the Star Ledger, and the Two River Times.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None  
Abstain: Kinsella, Schiavetti  
Absent: None

MOTION by Mr. Lehder and second by Mr. Neczesny to move into executive session to discuss the appointment of board professionals for 2024.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None  
Abstain: Kinsella, Schiavetti  
Absent: None

The Board moved to Executive Session at 7:30 pm and returned to the regular meeting at 7:55 pm.

Roll call:

Present: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Kinsella, Schiavetti, Lehder  
Absent: None

Also Present: Mr. Kovats, Board Attorney; Mr. Rizzo of CME, Board Engineer; and Councilwoman Cole

MOTION by Mr. Neczesny and second by Mr. Kinsella to appoint Doug Kovats, Esq. of Kenney, Gross, Kovats & Parton, as Board Attorney for 2024 subject to review and signing of the contract.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None

Abstain: Kinsella, Schiavetti  
Absent: None

MOTION by Mr. Neczesny and second by Mr. Forte to appoint Jordan Rizzo of CME as Board Engineer for 2024 subject to approval of the contract.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None  
Abstain: Kinsella, Schiavetti  
Absent: None

MOTION by Mr. Neczesny and second by Mr. Lehder to appoint Clarke, Caton and Hintz (CCH) as Board Planner for 2024 subject to approval of the contract.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: None  
Abstain: Kinsella, Schiavetti  
Absent: None

Mr. Lehder introduced the following application under New Business:

Diacont – 36 DeNormandie Avenue, Block 50, Lot 5, Zone R-5

The applicant is seeking bulk variance approval to construct a second story addition above a garage by converting an existing bedroom into two new bedrooms. The applicant has requested the following variances:

The *minimum required side yard setback* is 7 feet; whereas the existing dwelling and proposed addition are set back 6.9 feet. The *minimum required combined yard setback* is 16 feet; whereas the existing dwelling and proposed addition have a combined set back of 15.7 feet. The *maximum required floor area* is 2,200 sf; whereas the proposed floor area is 3,370 sf. The *minimum required rear yard setback* is 30 feet; whereas the existing dwelling (deck) will remain set back approximately 7 feet and the proposed addition is set back 29.1 feet.

Mr. Lehder advised that Mr. Forte would be recusing himself on the matter. Mr. Forte excused himself and left the dais.

Mr. Kovats swore in the following witnesses:

Mr. Al Shissias, Architect of Shissias Designs + Development, 21 First Street, Rumson, NJ  
Mr. Chad Diacont and Mrs. Leigh Diacont, homeowners, 36 De Normandie Avenue, Fair Haven, NJ

The following exhibits were marked:

**Exhibit A1** – Zoning Board Application Guidelines and Part III, List of variances requested, Waivers requested, Legal reasons why or why not variances should be approved, Completed Land Development Checklist dated 9/28/23 (18 pages).

**Exhibit A2** – Zoning Officer's Denial Letter dated 8/7/23 (3 pages).

**Exhibit A3** – Images of the property (5).

**Exhibit A4** – Fair Haven Historic Preservation Commission Memorandum of Action dated 2/28/23 (2 pages).

**Exhibit A5** – Survey prepared by Charles Surmonte, P.E. & P.L.S., dated 7/7/23.

**Exhibit A6** – Signed and sealed architectural plans titled *Diacont Residence* prepared by Shissias Design & Development, (2 pages), dated 9/15/23.

**ZBA 1** – CME - Engineering Letter #1 dated November 7, 2023 (8 pages including 4 images).

**ZBA 2** - Email correspondence between CME Engineer, Jordan Rizzo, and the applicant's architect, Al Shissias dated November 7, 2023, through November 9, 2023.

Mr. Kovats asked the applicant's architect if he had any other exhibits to submit. Mr. Shissias submitted the following:

**Exhibit A7** – Attic floor plan dated December 28, 2023.

**Exhibit A8** – Historic Commission exhibit, dated February 16, 2023.

Mr. Kovats confirmed jurisdiction on the matter with the Board Secretary.

Mr. Diacont addressed the Board and gave an overview of the project.

Mr. Rizzo provided a list of checklist waivers being requested including:

Ownership Disclosure Statement, Completed Monmouth County Planning Board Application, Completed Freehold Soil Conservation District Application, Completed Monmouth County Health Department Application, Copies of all easements, covenants, and deed restrictions. He requested that the Board waive the items listed.

Mr. Diacont addressed the Board and gave an overview of the project and discussed the functionality of the space. The objective is to create two additional bedrooms from one existing bedroom. Also, converting a first-floor bedroom space to a playroom. He stated that they have already appeared before the Historic Preservation Commission and been given approval to proceed. He explained that the house is in the R-5 zone but it is oversized and sits at the rear of the lot.

Mr. Lehder stated that he wanted to address three preliminary matters including the three prior Resolutions that were granted, exact details on the variances being sought, and the process before the Historical Preservation Commission and whether any adjustments to the plans were made as a result of the meeting.

Mr. Kovats marked the prior Resolutions as exhibits:

**ZB 3** – Resolution dated August 27, 1984 regarding a fence.

Mr. Diacont confirmed that the fence is still there.

**ZB 4** - Resolution dated November 19, 1993 requesting to construct a two-story addition and one story, two car garage.

**ZB 5** - Resolution dated March 25, 1994 to construct an elevated ten foot wide by eight-foot- deep elevated deck to the rear of the existing dwelling.

Mr. Shissias described the decking and walkways on the rear of the home. He said that the decking was included in the lot coverage calculations. He described the multi-levels of the home which includes a two story, single story, and one and a half story.

Mr. Shissias reviewed the variances being sought. He also reviewed the details of the meeting with the Historic Preservation Commission noting that they requested more traditional details on the home as stated in the Memorandum of Action.

Mr. Lehder asked Mr. Shissias to explain how the home is currently measuring 3000 square feet.

Mr. Shissias reviewed all the measurements. They discussed the attic room over the existing garage and that it was not included in the measurement.

Mr. Lehder explained that it would need to be added to the total square footage and that new existing square footage would need to be confirmed.

Mr. Rizzo reviewed the additional loft space that is accessible by a fixed story. This space should be considered a half story.

Mr. Shissias reviewed the plans and stated that the current second-floor bedroom was currently not functional and not insulated. The applicants are trying to achieve four bedrooms. The proposal is to have three kid's bedrooms and an additional bathroom. They are also looking to add storage because there isn't a basement.

Mr. Lehder noted that the house is in the R 5 zone, but it currently exceeds the allowable square footage significantly. He stated that the overall square footage measurements needed to be re-calculated.

Mr. Diacont said that the size of the lot, although in the R-5 zone, is more comparable in size to a house in the R-10 zone.

Mr. Lehder noted that it is a difficult house to work with exacerbating pre-existing nonconformities. He explained the difference between using the R-5 and the R-10 zones as a basis for seeking variances.

Mr. Schiavetti explained that the cap on zones does not relate to the size of the lot.

Mr. Diacont explained that they would like to improve the front façade of the home and that it would improve the neighborhood. They have looked at a lot of different ways to reconfigure the space. Currently, the floor plan is very chopped up and creates a difficult living space.

Mr. Shissias reviewed the plans as seen from the street and explained how the new plan creates a visual balance.

The Board discussed the sizes of the various rooms on the first floor.

Mr. Lehder pointed out that the ordinance does not account for whether bedrooms are on the first or the second floor and that makes sense, from a zoning perspective, but might not make sense economically. He stated that the variances being considered are a C1 and a C2.

Mr. Kovats explained that a C1 is a hardship variance. A C2 variance is one that considers the benefits to the zone plan and the zoning ordinances.

Mr. Lehder said that the setback issue was an important point as well as the irregularity of the lot shape but that the argument for the variance was not yet complete. Lot coverage remains an issue that needs to be addressed. He said the overage needs to be more hidden from the street even if the house is setback.

Mr. Shissias discussed alternatives to hide more of the bulk of the house from the street but that it would probably be quite costly. He said that by possibly adjusting the decking and walkways they could bring the lot closer to conforming status. He noted his understanding that they will need to come back with a stronger case for the C1 and the C2 variances.

Mr. Lehder opened the meeting to the public.

Mr. Kovats swore in Nathaniel Matthews, 32 DeNormandie Avenue, as a witness.

Mr. Matthews explained that he has been a resident since 2016 and lives in the house to the south of the applicant's home. He said that the back of the home should be considered like a basement space. He is not concerned about the elevated height to his property line. He believes that the applicant is making a good effort to improve the property and that he is in favor of approving the application.

Mr. Kovats swore in Gregory and Barbara Lewis, 39 Gillespie Avenue, as witnesses.

Mr. Lewis stated that they live behind the applicant's home and that their main concern is the height of the structure. They submitted pictures that they took from inside their home.

Mr. Kovats marked the following exhibit:

**ZB 6** – 7 Photographs of the front and side of the Lewis' home taken the week prior.

Mr. Lewis reviewed the pictures with the Board and expressed his concern about the amount of shade around their home. The back of the house is the only place where they get sun late in the afternoon. They are not opposed to the applicants adding to their home but would like to have consideration taken towards their sun exposure.

The Board discussed some ways in which that might be accomplished.

There were no other comments from the public.

Mr. Diacont asked if they could carry the matter to the next meeting so they could come back with revised plans.

Mr. Shissias agreed to carry the application with the stipulation of an extension of time for the Board to act.

MOTION by Mr. Lehder and second by Mr. Neczesny to *carry the application* with the stipulation of an extension of the Board's time to act.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder

Opposed: none

Abstain: Kinsella, Schiavetti

Absent: None

The Board took a five-minute recess at 10:31 pm and returned to the regular meeting at 10:36 pm.

Mr. Forte returned to the dais.

Roll Call:

Present: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Kinsella, Schiavetti, Lehder

Absent: None

Also Present: Mr. Kovats, Board Attorney; Mr. Rizzo of CME, Board Engineer; and Councilwoman Cole

Mr. Neczesny reviewed the first administrative item: *Approval of Minutes from the December 7, 2023, meeting.*

MOTION by Dr. Neczesny and second by Mrs. D'Angelo to Approve the December 7, 2023, meeting minutes.

In Favor: Neczesny, D'Angelo, Ridgeway, Forte, Laufer, Kinsella, Schiavetti, Lehder

Opposed: none

Abstain: Ryan

Absent: None

Mr. Neczesny reviewed the next item: *Approval of resolution for Ryan – 917 River Road, Block 51 Lot 8, Zone R-20.*

MOTION by Mr. Neczesny and second by Mr. Forte to approve the resolution for variance relief for Ryan – 917 River Road, Block 51 Lot 8, Zone R-20.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder

Opposed: none

Abstain: Kinsella, Schiavetti

Absent: None

Mr. Lehder introduced the next agenda item: *Discussion about scheduling new matters.*

Mr. Lehder reiterated the need to have all members present at meetings, whenever possible.

MAD - 550 River Road will be scheduled for February 1, 2024.

Diacont – 36 DeNormandie, Thompson – 22 Glen Place and Dwyer- 23 Hance Road will be scheduled for March 7, 2024.

Whispering Woods – 78 Pine Cove Road will need to be scheduled as a special meeting in February.

Mr. Lehder requested the Secretary to reach out to CCH to ask if they are preparing a report on the MAD – 550 River Road matter and when that report will be made available.

The meeting was opened to the public. There were no comments from the public.

Mr. Lehder made a MOTION to close the meeting that was carried by voice vote at 10:47 pm.

Respectfully submitted,  
Sheilah Olson  
Board Secretary

**Public Announcement of Compliance**

This is a regular meeting of the Fair Haven Zoning Board of Adjustment. Adequate notice of this meeting has been given pursuant to the provisions of the Open Public Meetings Act. At the time of the Board reorganization in January of this year, the Board adopted its regular meeting schedule for the year. Notice of the schedule was sent to and published in the Asbury Park Press and the Star Ledger on January 20, 2023. That Notice was also posted on the bulletin board in Borough Hall and has remained continuously posted there as required by the Statute. A copy of the Notice is and has been available to the public and is on file in the Office of the Borough Clerk. A copy of the Notice has also been sent to such members of the public as have requested such information in accordance with the statute. Adequate notice having been given, the Board Secretary is directed to include this statement in the minutes of this meeting.