

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – February 1, 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, Forte, Laufer, Schiavetti, Lehder

Absent: Ryan, Kinsella

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

Mr. Lehder changed the order of the meeting and introduced *Administrative Item*:

Gaiero/Robby – 8 Hendrickson Place, Block 46 Lot 12, Zone R-10

Request to grant an 18-month extension of time, beginning June 2023, for previously granted variance relief.

Mr. Kovats, Board Attorney, swore in the witness:

Shawn Gaiero, Homeowner, 8 Hendrickson Place, Fair Haven, NJ

Mr. Lehder explained that the applicant had already been granted variance relief by the Board and is looking for a second extension to begin construction. He stated that once an application is approved, an applicant has one year to begin the project or may request an extension.

Mr. Kovats said that the original approval was granted on February 4, 2021. An extension was granted on June 2, 2022. A second request for an extension was made on June 1, 2023. He said that extensions could only be granted for a period of one year so the new extension would need to be a 12-month extension effective as of the approval date.

MOTION by Mr. Neczesny and second by Mr. Forte to approve the request for a 12-month extension of time for previously granted variance relief.

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

Opposed: None

Abstain: None

Absent: Ryan, Kinsella

Old Business:

Mr. Lehder introduced the following application under *Old Business*:

MAD – 550 River Road, Block 33 Lot 10, Zone R-5 (carried from 12.7.23)

Variance relief requested: Minor Site Plan and Use Variance approval to convert the existing building to a personal fitness studio on the first floor and another personal service or commercial use on the second floor, together with related site improvements on the property.

Mr. Kovats swore in the following witnesses:

Mark Aikins, Attorney, 3350 Route 138, Bldg. 1, Suite 113, Wall, NJ

Jason Fichter, Engineer and Planner, 1955 Route 34, Suite 1A, Wall, NJ

Jay Anderson, Anderson Campanella Architects, 120 East River Road, Rumson, NJ

Andrew Anderson, 81 Riverlawn Drive, Fair Haven, NJ

Mike Duffy, Mike Duffy's Personal Training 1127 Highway 35 Ocean, NJ

The following exhibits were marked:

Exhibit A15 - InSite Plan Update Letter inclusive of revised drawings dated 1/17/24 in response to the Engineers Review, dated January 18, 2024.

ZB 3 – Fair Haven Zoning Board of Adjustment Resolution of Approval, dated December 17, 1968 (8 pages).

ZB 4 – Monmouth County Development Review Committee Report, received by their office on November 11, 2023, and action taken on December 11, 2023.

ZB 5 - CCH Planner's Report, Michael Sullivan and Donna Miller, dated January 23, 2024.

ZB6 – CME Engineer's Review Letter #3, Jordan Rizzo, dated January 31, 2024.

A16 –In Site Google Earth Map with superimposed revised site layout, dated February 1, 2024.

A17 – Smaller version of A16, neighborhood exhibit.

Mr. Lehder gave an overview of the last meeting and asked Mr. Aiken's to speak specifically to the change of use. He referenced the 1968 Resolution which allowed a commercial bank in the residential zone and asked whether this change of use would be in compliance with the 1968 Resolution. He stated that the other issues with regards to parking, lighting, entrance and exits, etc. would be secondary.

Mr. Aikens said that the purpose is to provide a less intense adaptive reuse of the site which has been a commercial property for decades. They have taken the neighbor's comments from the December meeting into account in revising the site plans. He also noted that Mr. Duffy would be taking the lease for the entire building and that there will not be a separate tenant upstairs unless Mr. Duffy decides to sublease to a tenant for a complimentary use.

The members discussed the use of the upstairs space and whether it could be sublet for different uses.

Mr. Rizzo said that the upstairs use would need to be the same use.

Mr. Fichter reviewed the revised site plans which included:

1. The ground lights for the flagpole and freestanding sign are to be replaced.
2. The exit driveway onto River Road has been reduced in width.
3. The parallel parking space dimensions have been revised.
4. Sight triangles have been provided at both driveway exits.
5. The lighting analysis has been updated to include the existing streetlight along River Road.
6. The fence along the rear of the property line is to be replaced in kind.

7. The lights under the western drive through area are proposed to be removed and replaced with less intense, downlighting to prevent glare.
8. The site lighting will be on timers. They will be turned off one hour after the business day, from 8PM to 5AM.
9. The freestanding sign detail will include dimensions for the sign area and size of the letters.

The board discussed the details of the parking determination. It was stated that the calculations for parking should be determined by its use as a studio.

Mr. Rizzo clarified the definition of a studio as per the Borough ordinance for the Board.

The Board also discussed some of the details of the fence and the proposed lighting.

Mr. Rizzo asked about the impervious coverage calculations and asked Mr. Fichter to clarify the removal of a sidewalk and a portion of the driveway. He also asked Mr. Fichter to agree to removing the existing bench in the Southwest corner of the property.

Mr. Lehder asked about the fence and the driveway pitch being required by the 1968 Resolution and how it pertains to this application.

Mr. Aikens stated that the plans would be an update to the 1968 Resolution and that they would comply with all the stipulations of the resolution including the fence and the drainage requirements.

The Board members agreed that these issues would need to be discussed in further detail to ensure that the new plans consider the conditions of the 1968 Resolution.

Mr. Fichter reviewed the pitch of the pavement on the plans and stated that it primarily slopes towards River Road and a small amount to Smith Street.

Mr. Aikens called Mr. Duffy to testify before the Board.

Mr. Duffy explained his professional background and the nature of his business to the Board. The intention is to move from his current location in Little Silver to Fair Haven as a co-owner of the property. He discussed the business hours of operation, his client base, the number of staff/personal trainers, and his appointment-only business model. He also said that there would be no microphones or loud music. Regarding the second floor, Mr. Duffy stated that he was hoping his business would grow and expand to the second floor in the future. He also noted that there would be minimal if any outdoor exercise and only during the warmer weather. When asked about the teller space, Mr. Duffy said that he would probably use it for storage.

Mr. Aikens stated that they would like to accommodate for a possible comparable use on the second floor in the future, noting that it is accessible through a second entrance.

Mr. Lehder clarified that the application is specifically for Mr. Duffy's use of the space as a studio on the first floor and possibly a comparable use, or office space on the second floor.

The board members discussed various parking scenarios based on the use of both floors. They also discussed the layout and sizes of the parking spaces and the stacking of cars for employee parking.

Mr. Rizzo asked about the plans regarding the back parking. He recommended as a condition of approval that the applicant be limited to two parking spaces without the ability to stack vehicles.

Mr. Lehder addressed the reuse and how it relates to the parking spaces. He noted that Mr. Duffy would likely not need all the spaces but expressed concern about the potential upstairs tenant and how that would affect the overall parking situation.

Mr. Fichter added that it is not a tight parking lot and that it is relatively very functional.

Mr. Aikins took 5 minutes to confer with his client and architect.

Mr. Anderson, applicant/owner, stated that he would move his current business office from 803 River Road to the upstairs space temporarily until Mr. Duffy is ready to expand his personal fitness studio. He noted that it would have a positive effect on the parking as it would only be him and occasionally a client needing to park. His office hours will be Monday to Friday from 7 AM to 7 PM.

Mr. Aikens called Mr. James Anderson, Architect, to address the Board.

Mr. Anderson asked to mark two additional exhibits:

A18 – Color elevations and floor plans and balance of elevations

A19 – Black and white Google street scape

A20 - Second floor photos for remaining mechanicals

Mr. Anderson walked the Board through the existing conditions as well as what is proposed for the interior and exterior of the building. The exterior modifications will include retaining and repairing the slate roof, retaining and repairing the brick while adding a whitewash, repairing windows and doors as needed and painting a warm gray, restoring the existing cupola, and adding a weathervane, removing the existing ATM entrance, and replacing with a bank of windows.

He explained that all the infrastructure related to the bank activities will be removed and the interior modifications will include adding a reception area, repurposing the teller area as an office, reconfiguring the vault with two handicap bathrooms, and changing the access to the second floor to outside only. The upstairs space will remain essentially as original except for replacing the two existing bathrooms with one handicap bathroom and removing the door at the top of the stairs.

The Board members discussed the use of the bathrooms and the showers as it pertained to usage of the site and any additional overlap. Mr. Duffy said that the showers rarely get used.

Ms. Donna Miller, Planner, brought up the subject of the exterior building lighting. She stated that there needs to be coordination between the applicant's engineer and architect with respect to the lighting plan.

Mr. Aikens said that all the lighting details would be added to Mr. Fichter's engineering plan.

Mr. Fichter explained the details of the lighting plan to the Board. He said that they would light the driveways for safety, remove the light in the middle of the parking lot, add a light pole by the Smith Street driveway, remove the ceiling mounted lights on the western drive through and replace them with down lights, replace lights on the flagpole and the sign with more appropriate lights.

The Board then discussed the details of the sign. They suggested that there may be an opportunity to improve on the sign. There was some confusion as to whether there were any more recent resolutions from the Borough that related to the sign. It was discussed that all parties would investigate that aspect of the matter further.

Mr. Aikens asked Mr. Fichter to provide a comprehensive planner testimony as to the request for a D1 Use Variance.

Mr. Fichter explained the reasons why variance relief should be granted for the adaptive reuse of the building and that there would be no substantial detriment to the public good or impairment to the zone plan. He confirmed that the variances being sought included the D1 Use Variance, a variance for the quantity of window signs, a variance for the freestanding sign, two variances for the fence and an impervious coverage variance.

Mr. Lehder reconfirmed the variances being sought. He then called for a five-minute break at 9:54 PM.

Mr. Lehder called the meeting back to order at 9:58 PM.

Roll Call:

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

Absent: Ryan, Kinsella

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

Mr. Lehder opened the meeting for public comment.

Mr. Kovats swore in Arthur Arford, 14 Colonial Court.

Mr. Arford identified his home on the neighborhood exhibit. He expressed his concerns about off-site parking and the water runoff onto Smith Street. He stated that water builds up on Smith Street, some from the Acme parking lot, but it all pools back up towards Colonial Court.

Mr. Schiavetti noted that water runoff was mentioned in the 1968 Resolution and remains a problem to this day.

Mr. Kovats then swore in Melissa Osofsky, 22 Colonial Court.

Mrs. Osofsky said that she was concerned about the noise levels, the potential for outdoor training during the nice weather, traffic and parking on Smith Street, and the hours of operation starting at 5:00 AM. She presented the Board with documentation of noise complaints from the Ride Studio in the

adjacent Acme parking lot because it is a similar use. She also requested that the applicant create more of a vegetative buffer behind the building.

Mr. Lehder asked about the Borough ordinance that allows for hours of operation.

Mr. Aikens said that the applicant will agree as a condition of approval not to have outside training and to comply with the Borough ordinance regarding business hours.

Mr. Neczesny confirmed that the Borough ordinance states that businesses may open from 6:00 AM to 11:00 PM.

Mr. Kovats swore in Ruth Blazer, 523 River Road.

Mrs. Blaser asked if it is possible to rescind old variances. She expressed concerns about the water runoff from the property. She also stated that she would like to see the building painted a dark color so that it is less noticeable from the street and asked that the cupola be removed from the plans.

Mr. Lehder once again reviewed the variances being sought.

The Board discussed the details of the cupola and the additional weathervane and whether the additional height would trigger a variance.

Mr. Lehder asked if there were any other comments from the public. There were none.

Mr. Lehder said that he still had some concerns about the parking lot, second story use, signage, lighting, and drainage but that it did not warrant being squeezed in at the late hour. He stated that he was comfortable with the change of use as it relates to Mr. Duffy's business and the applicants' use of the second-floor space.

The Board discussed some of the details of the parking plan and their thoughts on the application. They agreed with Mr. Lehder's comments on the details that will need to be revisited. The biggest issues were about signage, lighting and runoff.

Mr. Aiken's stated that all the stipulations of the 1968 Resolution would be met and proposed to the Board that they proceed with the Use Variance and come back to the other variances requests later. He proposed that the lighting plan, sign plan, landscaping and drainage should remain open until the Board could review at a later meeting date.

Mr. Lehder reviewed the matter stating the first-floor use will be for Mike Duffy, the second floor will be an open space for either studio or office space, and the approval will be tethered together.

MOTION by Mr. Lehder and second by Dr. Laufer to approve the D1 Variance and leave the Site Plan open.

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

Administrative Items:

Mr. Neczesny reviewed the first administrative item: *Approval of Minutes from the January 4, 2024, meeting.*

MOTION by Mr. Neczesny and second by Mr. Forte to Approve the January 4, 2024, meeting minutes.

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

Mr. Neczesny reviewed the next item: *Approval of Resolution Authorizing contract for Board Planner for 2024.*

MOTION by Mr. Neczesny and second by Mrs. D'Angelo to approve the resolution authorizing the contract for Board Planner.

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

Mr. Neczesny reviewed the next item: *Approval of Resolution Authorizing contract for Board Attorney for 2024.*

MOTION by Mr. Neczesny and second by Mr. Lehder to approve the resolution authorizing the contract for Board Attorney.

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

Mr. Neczesny reviewed the last item: *Approval of Resolution Authorizing contract for Board Engineer for 2024.*

MOTION by Mr. Neczesny and second by Mrs. D'Angelo to approve the resolution authorizing the contract for Board Engineer.

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

The Board discussed the scheduling of the Whispering Woods hearing.

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 10:55 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 on January 26, 2024, and the Two River Times on February 1, 2024. 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.