

## **BOROUGH OF FAIR HAVEN PLANNING BOARD**

### **Regular Meeting Minutes - February 16, 2021, 7:30 pm - Virtual Meeting via Zoom Platform due to the COVID-19/Coronavirus Pandemic**

The meeting was called to order at 7:34 by the Chair, Mr. Lehder, with a reading of the Open Public Meetings Act statement (see attached) followed by the Pledge to the Flag.

#### **1. ROLL CALL**

Present: Mr. Bordelon, Ms. Busch, Mrs. Koch, Mr. Newell, Mr. Nitka, Mr. Paolo, Mr. Rolff, Mr. Burkhardt, Mrs. D'Angelo, Ms. Murray, Mr. Lehder

Absent: None

Also Present: Mr. Kovats, Board Attorney, Ms. Gable, Board Planner, Mr. Gardello, Board Engineer, Susan Gruel, Board Planner

Mr. Lehder explained that after addressing Planning Board business the remainder of the meeting would be a presentation by Mr. Kovats on Land Use Law, followed by discussion. Members of the Zoning Board and Council will be joining the Zoom session in order to participate, along with members of the public.

#### **2. Consideration of Ordinance No. 2021-01, Amending Affordable Housing Ordinance No. 2020-05**

Ms. Gruel stated this was a discrete amendment to the ordinance passed last year after more detail was requested. The purpose is to clarify the portion (section G) dealing with new construction related to the low income / number of bedrooms breakdown. Mr. Kovats noted that he did not see anything inconsistent with the Master Plan and the Board agreed.

#### **3. ADMINISTRATIVE MATTERS**

Jessie Murray was sworn in as a Class 11 Member

#### **4. LAND USE PRESENTATION**

Mr. Kovats began with a discussion regarding jurisdiction of the Boards. He noted the laws start with the State constitution, followed by Municipal Land Use Law and then Town Ordinance. The Planning Board is the "keeper of the Master Plan". The Master Plan identifies zones and is a requirement of the MLUL. It is important to realize that the Boards do not make laws and that their limited jurisdiction is strictly set forth in the MLUL.

Applications go to the Zoning Officer (ZO). As gate-keeper, the ZO determines if an application is consistent with the ordinances and zoning requirements and determines which Board, if any, is needed. The Board Secretary then becomes the point of contact and shepherds the application.

The Zoning Board has exclusive jurisdiction of D variances, interpretations of the zoning ordinance and challenges to a denial by the ZO. A Zoning Board hearing is a trial type setting. In the case of a D variance a super majority is required due to the gravity of the deviation from the ordinances adopted by Council.

The Planning Board deals primarily with site plans and subdivisions and has concurrent jurisdiction over C variances. The Board Acts more as a legislative body. It is responsible for the Master Plan, reviewing any ordinances proposed by the Council and it also conducts facility reviews for the Borough and the Board of Education. The PB reviews and comments on school projects but the power to approve or modify the plans rests with the State. It was noted that relief runs with the application not the applicant.

At the end of Mr. Kovat's presentation Ms. Gable clarified that site plans are not required for single family homes.

Samuel Laufer, Zoning Board member asked if a project has only preexisting nonconforming issues is it required to go through the zoning process. If there are no exacerbating conditions, it does not. The grandfather ordinance was passed years ago to avoid the need for that type of project.

Laline Neff, Council member, asked how differences in interpretation between the two Boards can be avoided. Mr. Lehder explained that the ZO filters the applications and makes a determination as to the Board that will review. How each Board determines whether or not to grant a C variance the same, because the standards that apply through the MLUL and the case law apply the same way. Mr. Lehder emphasized this is why establishment of the proofs is so important - so different decisions on different days by different boards can all utilize consistent standards.

In response to a question about training of Board members Mr. Kovats explained the required training process and content.

Pat Quigley, Zoning Board member, asked about the effect of affordable housing on variances, Mr. Kovats stated that applicants have the right to come before the Board and make a case for variances if they can make the proofs. Mr. Lehder pointed out that newer ordinances like the affordable housing overlays reflect the current thinking of the Council.

Mr. Paolo asked about subdivisions that involve merging lots. There has not been one recently in Fair Haven but it can be done.

The meeting was open for public comment.

Carolyn Ferguson noted that the Forefront Property of River Rd. was an example of lots being merged as opposed to divided.

Tracy Cole thanked the Board for having this meeting. She noted the relationship between land use and shared values and the importance of preserving the pedestrian environment.

There were no further comments from the public.

Mr. Lehder noted the need to maintain an ongoing discussion that will be more specific to Fair Haven.

MOTION to adjourn made, second, and carried by voice vote.

Meeting adjourned at 9:58 PM.

Respectfully submitted,  
Judy Fuller, Acting Secretary

Public Announcement of Compliance

**This is a regular meeting of the Fair Haven Planning Board. 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 of the Board's regular meetings was sent to and published in the Asbury Park Press, and was also sent to the Two River Times and the Star Ledger. Tonight's meeting was listed in the Notice of the schedule of regular meetings. That notice was also posted on the bulletin board in Borough Hall, and has remained continuously posted there as required by the Statute. In addition, 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.**