

BOROUGH OF FAIR HAVEN PLANNING BOARD

Regular Meeting Minutes - February 18, 2020

1. The meeting was called to order at 7:30pm by the Chair, Mr. Lehder, with a reading of the Open Public Meetings Act statement followed by the Pledge to the Flag.

2. ROLL CALL

Present: Mr. Bordelon, Mr. Borneo, Mr. Ingle, Mrs. Koch, Mr. Newell, Mr. Sobel, Mr. Lehder

Absent: Mr. Folker, Mr. Rolff, Mr. Criscola

Also, Present: Mr. Kovats, Board Attorney; Mr. Gardella, Board Engineer and Ms. McKinley Mertz, Board Planner

Mr. Criscola arrived at 7:32 and joined the dais.

3. NEW BUSINESS

304 Fair Haven Road, Block 77, Lot 4.01, R-10 Zone – Sackman – Conforming Minor Subdivision.

Mr. Kovats confirmed notice material was in compliance and swore in Charles Surmonte from Surmonte Engineering located at 301 Main Street, Allenhurst, NJ and Jennifer Krimko, Esq. from Ansell Grimm & Aaron Counselors at Law located at 1500 Lawrence Avenue, Ocean, NJ on behalf of the applicant.

The following were entered into evidence by Mr. Kovats:

Exhibit A-1 – Applicants application dated 11-19-19.

Exhibit A-2 – Minor subdivision plan for the subject property Lot 4.01, Block 77, signed and sealed by Charles Surmonte P.E. & P.L.S., dated 10-28-19.

Exhibit PB-1 – Board Engineer’s report dated 01-03-2020.

Exhibit PB-2 – Board Engineer’s technical review report dated 02-07-2020.

Exhibit PB-3 – Board Planner’s report to the applicant dated 02-12-2020.

Exhibit PL – Letter, 2 pages with unmarked map, from Philippe de Laperouse with email dated 02-18-2020.

Ms. Krimko asked to confirm that the letter was not distributed to any Board Members. Mr. Kovats confirmed to the best of his knowledge it was not distributed. Mr. Kovats stated the letter was not sworn testimony and characterized the letter as containing historic information about the subject property and that Mr. de Laperouse and his family had owned the subject property at some point in the past. The Laperouse’s are not in favor of the subdivision.

Ms. Krimko proceeded with testimony stating the application is for a fully conforming subdivision. The subject property is currently an oversized lot for the zone. The proposal is to subdivide the lot into two conforming lots, one fronting on Fair Haven Road and one property fronting on Fair Haven Road and Brookside Farm Road. There is no construction proposed at this time, it’s the applicant’s position that any proposed construction would conform to the Ordinance requirements or it would have to go before the Zoning Board for variance relief. At the time of

construction all required documents would be submitted as required. Ms. Krimko goes on to address Mr. Gardella's letter, exhibit PB-2, stating they will comply with most of the conditions in the report.

Mr. Surmonte relayed his credentials and began his testimony stating that the subject lot is almost 28,000 square feet, sits at the South West corner of Fair Haven Road and Brookside Farm Road. Fair Haven Road frontage is about 175 feet and between 130-140 feet on Brookside Farm Road. There is currently a single-family home and shed on the lot, both structures are proposed to be removed. The interior lot of the proposed subdivision would create an 80-foot-wide lot on Fair Haven Road with a lot size of 13,700 square feet. The proposed corner lot will have 95 feet of frontage along Fair Haven Road and a lot size of 14,250 square feet.

Ms. Krimko stated that both lots will exceed what is required for the R-10 zone which is 10,000 square feet for an interior lot and 11,500 square feet for a corner lot. Also, any proposed homes that meet the Habitable Floor Area requirement in an R-10 zone of 3,220 square feet will both be well below the maximum Habitable Floor Area Ratio based on the lot sizes.

Ms. Krimko wanted to clarify her earlier statement of no proposed construction; it was related to new structures as the current structures plan to be removed. The removal will ensure that no structure will be straddling a lot line.

Ms. Krimko also stated that the intension for the driveway is to leave it on the corner lot on Brookside Farm Road and if a new owner wanted to have the driveway moved, they would have to comply with all Borough regulations.

Mr. Sobel asked if there was a contract purchaser.

Ms. Krimko stated that her client was the contract purchaser.

Mr. Lehder stated his main concern was with drainage at the subject property. He stated that there is currently a drainage issue off of Brookside Farm Road. He asked if the applicant was prepared to deal with drainage.

Ms. Krimko stated that her client would be required by law to follow new construction regulations and not create any greater runoff then what is currently occurring. With any new construction a grading and drainage plan would be required and submitted.

Mr. Lehder asked if the applicant would be willing to, as a condition of approval, commit to requiring the installation of drywells with any new construction.

Ms. Krimko confirmed the applicant would agree to install drywells for any new construction.

Mr. Lehder asked if the applicant would agree to keep the existing driveway that is on Brookside Farm Road, on Brookside Farm Road and not be permitted on Fair Haven Road.

Ms. Krimko confirmed that the applicant would agree to that condition.

Mr. Lehder asked Mr. Gardella if the applicant would be required to install sidewalks on Brookside Farm Road and Fair Haven Road.

Mr. Gardella stated he was only recommending sidewalks be installed on Fair Haven Road not on Brookside Farm Road but to also install ADA ramps on both sides of the intersection so the intersection would then be fully conforming to ADA standards.

Mr. Lehder asked if there was a sight triangle easement on the property.

Mr. Gardella confirmed there was.

Mr. Lehder asked if they were currently in compliance with the sight triangle easement.

Ms. Krimko stated that it's not clear if the trees that appear to be in the easement are actually in the Borough right-of-way or on the subject property.

Mr. Gardella stated there are a number of trees that are clearly in the sight triangle.

Ms. Krimko stated whether the trees are on the subject property or in the right-of-way they would remove the trees in order to install the sidewalk in which case would render the easement in compliance.

Mr. Lehder stated that this location is on a busy road with a lot of visibility, would the applicant agree to develop the side of the corner house as a second front.

Ms. Krimko stated that the client would agree with developing the corner house with a second front on Fair Haven Road.

Mr. Kovats asked to confirm that the applicant would comply with the requests in Mr. Gardella's 02-07-2020 review letter.

Ms. Krimko confirmed except for the provision that would require the applicant to relocate the Holly Trees on Fair Haven Road. The applicant will have the trees removed for the sidewalk installation but not relocate the trees and leave the trees on Brookside Farm Road as they are not installing sidewalks on that road.

Mr. Lehder asked Mr. Gardella if he had an issue with the applicant not relocating the trees.

Mr. Gardella stated he did not have an issue with the applicant not relocating the trees, as there is no guarantee they would survive the relocation.

Mr. Lehder requested the trees that will remain on Brookside Farm Road receive adequate protection during construction.

Mr. Bordelon questioned the water well depicted on the survey and asked Mr. Gardella if there were any safety concerns or hazards.

Mr. Surmonte stated that he did not believe it was a functioning water well but may have been years prior.

Mr. Bordelon asked what the process was to mitigate the water well.

Ms. Krimko stated the applicant had an environmental report done and as part of any construction they would be required to follow protocol if it needs to be capped off or filled and she believes the construction department would be required to inspect.

Ms. Krimko wanted to add to the record that if they were to receive approval for the subdivision the applicant has agreed to trim the trees that are encroaching onto the neighbor's property on lot 4.02.

Mr. Kovats asked to review the conditions discussed beginning with Mr. Gardella's conditions 1 through 6 in his review letter dated 02-07-2020, install new and correct existing sidewalks, separate utilities to each lot, drainage will be addressed with roof gutter leaders that will drain into drywells, no need for variance relief, and the driveway is to stay on Brookside Farm Road.

Ms. Krimko confirm yes to all.

Mr. Lehder opened the meeting to public comments regarding this application.

Ralph Polcari with law firm Drazin and Warshaw at 25 Reckless Place, Red Bank, NJ representing Mr. and Mrs. de Laperouse who live on lot 4.02 and are previous owners of the subject property. He wanted to ensure that the mentioned tree trimming would be done over his client's property, that his clients would receive a copy of the mentioned environmental report done for the subject property and ensure there was no septic system on the subject property.

Ms. Krimko confirmed there was no septic system and that the property was served by sewer.

Carl Neff of 300 Fair Haven Road, Fair Haven, which is across the street from the subject property. Mr. Neff is in opposition to the subdivision as he believes it would be a big change to the character of the neighborhood, losing history and open space which seems to be scarce in Fair Haven at this point in time. Mr. Neff went on to give a description of the history of the subject property. He read a section from a Resolution passed in 1997 for the Brookside Farm subdivision to show that the loss of this property has been a concern since the original subdivision took place. The Planning Board that approved the original Brookside Farm subdivision decided to place the road between the two houses, being the subject property and 300 Fair Haven Road, so they would not have to demolish either dwellings.

Mr. Lehder asked to review the Resolution.

Ms. Krimko wanted it to be confirmed that the said Resolution did not contain a stipulation the house could never be demolished and has never been identified for preservation by any historic commission.

Mr. Neff stated he didn't see anything stating the house could not be demolished and was not aware of any historic preservation.

Mr. Lehder thanked Mr. Neff for speaking and asked if he could keep the Resolution and mark it as an exhibit.

Exhibit CN-1 – Brookside Farm subdivision Resolution dated 03-11-1997.

Laline Neff of 300 Fair Haven Road, Fair Haven, went on to describe the process of the renovation at her house. When deciding on the type of renovations they wanted to do to their house they made a conscious decision to keep the front of the house the same as not to change the historic look of the property. The only changes to the front have been a new roof and siding. The additions have only been added to the rear of the property. Their decision was based on resident comments and how many people know their house and enjoy the history of their home; they wanted to preserve that for the residents of Fair Haven. They believed changing the look of their historic home would be to the detriment of Fair Haven. Mrs. Neff also wanted to know how an approval of the subdivision would prevent variance relief to future owners of the properties as there are no proposed builds at this time.

Ms. Krimko stated that the current proposal has no variances, but they cannot restrict any new homeowner from requesting a variance in the future. But her client is stating that homes can be built on these proposed lots and can conform to the Borough Ordinances.

Mrs. Neff confirmed that she understood what Ms. Krimko stated but still had concerns with future requests for variance relief and is sad to see a house of such historical value be demolished.

No further comments from the public.

Mr. Lehder stated this is a conforming subdivision and the applicant has agreed to conform with most of the Board Engineers requests.

MOTION Sobel, second Ingle, to approve the subdivision based on the conditions stated in testimony and in the Board Engineer's review letter that was agreed upon by the applicant.

In Favor: Bordelon, Borneo, Koch, Newell, Criscola, Lehder

Opposed: None

126 Hendrickson Place, Block 77, Lot 62, R-10 Zone- Vilardi – Minor Subdivision, variances required for lot area and frontage.

Mr. Kovats started with marking the application exhibits.

Exhibit A-1 – Applicants application with checklist.

Exhibit A-2 – Plat of subject property dated 04-23-19.

Exhibit A-3 – Color rendering of plot plan of subject property dated 04-23-19

Exhibit A-4 – Marked up copy of Fair Haven Tax Map with area of subject property highlighted and neighboring properties in the R-10 Zone.

Exhibit PB-1 – Engineering report dated 12-30-19.

Exhibit PB-2 – Board Engineer's Technical report dated 02-04-2020.

Exhibit PB-3 – Board Planner's report dated 02-11-2020.

Attorney Brooks Von Arx announced himself on behalf of the applicants Santo and Eileen Vilardi owners of 126 Hendrickson Place, subject property. The subject property is located at the end of Hendrickson Place neighboring Fair Haven Fields and the Fair Haven recycling yard; it is around 18,000 square feet and is the largest lot at the end of Hendrickson Place. The applicants propose to subdivide the lot into two parts. The one lot on the east side of the existing lot, would be fully conforming and the other lot would be nonconforming with approximately 54 feet of frontage. The applicant believes that the nonconforming lot would still fit in with the rest of the neighborhood, which also has a number of nonconforming frontages for the R-10 zone and they do not believe it would have any negative impact to the neighborhood. Mr. Von Arx went on to state that his clients would not be developing the property but plan to sell the two lots.

The applicant's Planner, Justin Auciello with was sworn in and provided his credentials for the Board in which the Board accepted.

Mr. Von Arx asked Mr. Auciello if he was familiar with the subject property and if he has seen the subject property in person.

Mr. Auciello stated yes.

Mr. Von Arx asked Mr. Auciello to describe the neighborhood, as it presently exists.

Mr. Auciello went on to describe the neighborhood as neighboring Fair Haven Fields and the Fair Haven recycling yard. He stated the subject property is one of the largest lots in the area and at the dead end of the street making it unique for the area. He referred to exhibit A-4 stating that

the other lots in the area are mostly undersized for the Zone and the subject property is larger than most.

Mr. Von Arx asked if Mr. Auciello was aware of the average frontage of the neighboring undersized lots.

Mr. Auciello stated that the frontage requirements for the R-10 zone is 75 feet and he has calculated that about 40% of the lots neighboring the subject property have a frontage of around 50 feet. Mr. Auciello stated it was his professional opinion that the proposed subdivision would fit into what is existing in the neighborhood as it stands today.

Mr. Von Arx asked Mr. Auciello if the proposed nonconforming lot of the subdivision would still have a larger frontage than many of the existing undersized lots that currently exist on Hendrickson.

Mr. Auciello stated that was correct.

Mr. Lehder asked how many of the mentioned undersized lots on Hendrickson are the result of a subdivision and/or have received variance relief.

Mr. Auciello did not know the answer to Mr. Lehder's question. But reiterated that he didn't believe what was proposed would be a detriment to the existing neighborhood.

Mr. Kovats asked what variance relief the applicant was requesting.

Mr. Von Arx stated it was a flexible C(2) variance, which is intended to benefit the neighboring area.

Mr. Kovats asked him to please explain.

Mr. Auciello stated that the subject property is an oversized lot for its location and in his opinion they are proposing to create a lot that will need a variance for lot area and frontage but believes they are proposing a situation that is in more conformity with what is located in the general area of the subject property. He also believes they do advance with the purposes of the Municipal Land Use Law in advancing criteria C providing adequate light, air and open space. He believes they advance criteria E providing appropriate population density and well being of the community and environment.

Mr. Lehder asked to review the positive criteria for what's proposed again as he does not see how adding an additional house would add to the air, light and open space that Mr. Auciello mentioned in his testimony.

Mr. Auciello stated that going back to the character of the area and even though they are creating a lot that is under sized, in his opinion, it would still fit into the neighborhood and the pattern of development of the area. It is his opinion that what's proposed will not fracture the intention of the R-10 zone and will not impede the area.

Mr. Lehder asked Mr. Auciello if he believed creating two lots, one being undersized, would be a great benefit to the neighborhood than the existing oversized lot.

Mr. Auciello stated in his opinion, yes as it is at the end of Hendrickson and adjacent to the ball fields and recycling site.

Mr. Lehder asked if there was a plan on how to develop the undersized 54-foot wide lot.

Mr. Von Arx stated that it would be developed entirely in the bulk requirements of the Ordinance and they have stipulated and will put on the record that given the size of the undersized lot, as proposed, the size of any dwelling built on that property would be limited to 2,124 square feet as was recommended by the Board Planner and they would limit the height of a proposed house

to 32 feet which is what is permitted in that zone. Other than that, Mr. Von Arx stated all else would comply with all of the bulk requirements.

Mr. Lehder stated that he was concerned with the creation of an undersized lot and does not see how the two lots is more of a benefit than the current oversized lot.

Mr. Auciello stated that what's proposed is a better situation as the current home is aging and in need of work that the current property owners cannot accommodate at this time. The subdivision would allow for the construction of two new homes and would add to the character of the aesthetics of the area and the uniqueness of the property location.

Mr. Von Arx asked Mr. Auciello if in his opinion creating a 54-foot lot would create a conformity to what the neighborhood looks like today.

Mr. Auciello stated in his opinion, yes.

Mr. Sobel asked if the applicant took into consideration requesting the subdivision and creating two 64-foot lots.

Mr. Von Arx stated that was considered and did not believe his clients would be averse to that if the Board felt more favorable to that proposal. They went with the one-nonconforming proposal, as they believed it would have zero negative impact to any imitate residential properties.

Mr. Lehder stated there are currently problems on Hendrickson with access to the park and there are known complaints from the applicant that have been circulated town wide with regard to parking and complaints with regard to the new homes that have been developed in the area and the Borough's recycling facility. With that he does not follow their argument that having an additional family in this area doesn't present that additional family from having the same problem with these conditions.

Mr. Von Arx stated that the proposal, as proposed, is that they are only asking for the Board to approve what in essence is a continuation of what exists on the street, which creates one fully conforming lot, and one secondary lot which at least meets the required setbacks. He believes the proposed conforms with the rest of the area. In his opinion, he believes it would be unreasonable to deny the applicant the ability to create the extra lot when all of the surrounding area is developed similar to what they are proposing and with even less lot frontage than what is proposed.

Mr. Kovats asked that with the granting of a C(2) variance, how would it improve the situation with creating an undersized lot and undersized frontage.

Mr. Von Arc stated that in his opinion what the proposed does is take an oversized lot, which over conforms and brings it into more of a conformity to the zone.

Mr. Lehder stated that there are other oversized lots on McCarter, Allen and Maple and there are not only undersized lots in close proximity to the subject property.

Mr. Von Arx stated they wanted to show the comparison to only the undersized lots in the area. They recognize there are other oversized lots but wanted to emphasize the smaller lots, as they are more like the lot they propose and the majority.

Mr. Lehder asked if the applicant's representation could please explain how the two proposed dwellings would add to air, light and open space.

Mr. Auciello went on to say that the proposed undersized lot will be next to the ball field and therefore will provide enough air, light and open space.

Mr. Lehder did not see how just being adjacent to a park would add to air, light and open space.

Mr. Auciello stated that what's proposed will add to the character of the residential neighborhood down Hendrickson and because it is on a dead end will not be visible to many people.

Mr. Lehder disagreed and stated that any new dwelling will be extremely visible it will be next to the ball fields and there is traffic that comes with the fields.

Mr. Sobel does not see how creating two lots on what's existing would benefit the neighborhood. He states that what's existing may be an older home, but you could remove that home and build a new home on a beautiful lot. He does not see any positives with dividing the lot as proposed and believes the negatives will outweigh any proposed positives.

Mr. Auciello went on to state that what is proposed would stipulate that the dwellings built, should the subdivision be approved, would be conforming to the footprint that's allowable on the proposed lots.

Mr. Lehder mentioned three different lots on Hendrickson that required variance relief and believes it is a lot more difficult to conform on an undersized lot in the R-10 zone than the applicant's representation is stating. Also, there are no proposed plans to consider with a new build to see how it would fit in the proposed building envelope to conform to the setbacks.

Mr. Borneo stated that the tax map presented is dated 1991.

Mr. Von Arx stated that it is the current tax map.

Mr. Borneo asked if Mr. Von Arx recognized that it does not depict what is currently in the location of the subject property and specifically that it does not show that William Street runs all the way to Hendrickson Place and there are homes that are now on William Street that are not on the map presented.

Mr. Von Arx stated the purpose of what was presented was to show how Hendrickson has been developed with the many undersized lots for comparison.

Mr. Ingle asked if they were to approve the subdivision could they not just come back to the Board at the next meeting representing the house to the East stating that the Board as already approved a 50-foot frontage at 126 Hendrickson Place and now we would like to split a 100 foot lot to create two 50-foot lots and use the same arguments presented tonight. He believes it would be a slippery slope to approve the requested subdivision.

Mr. Von Arx didn't believe so as the subject property is an oversized lot and has at least one potential conforming lot.

Mr. Bordelon sees the lots on Hendrickson as getting larger as you get closer to Fair Haven fields and does not see their argument of conforming with the neighborhood by making the proposed smaller lot closer to the fields.

Mr. Auciello ended his testimony stating that he did not feel approving this subdivision would create anything detrimental to the public or neighborhood. He does not believe what they are proposing will fracture the zone plan.

Mr. Von Arx stated that to him the proposed plan has a unique feature and he would like the Board to consider the proposed subdivision because what is currently there is an oversized lot. The smaller lot would accommodate a modest affordable house, which is lacking in Fair Haven these days.

Mr. Criscola asked if someone could confirm if any of the lots presented on the tax map are double lots. He wanted to make certain that the lots depicted as single lots were not double lots.

Mr. Von Arx could not confirm.

Mr. Von Arx stated there have been a number of questions the Board had raised that may need some research on the applicant's part and therefore respectfully asked to carry the application to another time.

Mr. Lehder stated that he could motion in favor of the applicant's request.

MOTION by Lehder, second Koch to carry the application to a later date.

In Favor: Bordelon, Borneo, Ingle, Newell, Sobel, Criscola

Opposed: None

Mr. Lehder opened the meeting to the public regarding the Vilardi application.

Albert Zargar from 55 McCarter Avenue in Fair Haven asked if there would be any further notice for the Vilardi application.

Mr. Lehder stated there would be no further notice, but the date would be set at tonight's meeting.

There were no further comments from the public.

Chairman Lehder stated the Vilardi application would be carried to the 03/17/2020 meeting with no further need to notice.

5. ADMINISTRATIVE ITEMS

MOTION by Sobel, second Newell to approve the minutes from the 01/21/2020 meeting.

In Favor: Bordelon, Ingle, Koch, Criscola, Lehder

Opposed: None

MOTION by Sobel, second Koch to approve the 01/21/2020 executive meeting minutes.

In Favor: Bordelon, Ingle, Newell, Criscola, Lehder

Opposed: None

6. PUBLIC COMMENT

No comments from the public.

MOTION to adjourn made by Sobel, second Koch and approved by voice vote.

Meeting adjourned at 9:25 PM.

Respectfully Submitted,
Jennifer Johnson, Board 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.