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November 11, 2020

Chairman and Zoning Board Members  
Borough of Fair Haven  
748 River Road  
Fair Haven, NJ 07704

Re: Residential Variance Application  
Andrew Anderson  
Tax Map Lot 7, Block 26  
81 Riverlawn Drive, Fair Haven, NJ

Dear Chairman and Board Members:

As requested, I have reviewed the following materials provided in support of the applicant's request for variance relief. My review is limited to my engineering opinion related to the calculation of lot area:

1. Application to the Zoning Board of Adjustment of the Borough of Fair Haven.
2. Plans entitled "Anderson Residence" prepared by Anderson Campanella, dated May 14, 2020, last revised August 14, 2020
3. Plans entitled "Anderson Residence" prepared by Steven R. Krog Landscape Architect, P.C., dated May 14, 2020, last revised August 14, 2020
4. Plan entitled "Survey of Property – 81 Riverlawn Drive, Lot 7, Block 26 – Borough of Fair Haven", unsigned, prepared by Charles Surmonte, P.E., P.L.S., dated December 16, 2016.

## ENGINEERING REVIEW

### 1. Review of Lot Area

- 1.1. Survey.** The survey prepared by Charles Surmont, P.E., P.L.S. shows the northerly boundary of the property extending to a line labeled "Former Mean High Water Line – Approximate". Mr. Surmont also denotes the apparent mean high water line, labeled "Present Mean High Water Line". The area of the property is specifically labeled "24,035 S.F. to the MHWL". Given that this is somewhat ambiguous, as two MHW lines are shown, I scaled the lot area and confirmed that Mr. Surmonte's lot area excludes the area of property beyond the present mean high water line. Further indication of the lot limit is provided in Mr. Surmonte's labeling of the 50' setback line; a line reflective of the current mean high water line at the face of the bulkhead. The lot area indicated in Mr. Surmont's survey appears to properly include only that area of the lot which is landward of the mean high water line, even though the boundary line appears to extend to the former mean high water line. As such, the lot area provided by this survey (24,035 S.F.) appears to be consistent with the Borough Ordinance.



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- 1.2. Site Plan.** The "Site Plan" drawn by Mr. Krog provides a reference to the Surmonte survey, however a lot area of 27,680 S.F. is shown on the zoning schedule. Similarly, topography is shown on Mr. Krog's plan, which is not shown on the Surmonte survey, nor referenced elsewhere on the his plan. Furthermore, setback lines are drawn by Mr. Krog to the former mean high water line, in lieu of the current mean high water line as depicted by Mr. Surmonte. Mr. Krog appears to be utilizing the deed area of the lot which likely calls to the line of the former mean high water. This area, which measures approximately 3,700 SF is consistent with the difference in lot area between the Surmonte Survey and Krog Site Plan.
- 1.3. Analysis.** Tidelands, also known as riparian lands, are all lands that are currently and formerly flowed by the mean high tide of a natural waterway. The State of New Jersey claims ownership of these tidelands and holds them in trust for the people of the state. Certain properties may have some claim of ownership over the lands of the state, typically through either a grant, lease, or easement. The Borough ordinance specifically excludes unfilled, ungraded, and unstabilized portions of riparian grants from the "minimum lot area" (see §30-7.12). As such, in my opinion that the lot area shown on the survey is consistent with the Borough Ordinance. The northerly limits of the lot boundary and the lot area shown on Mr. Krog's plan and utilized in the zoning calculations are inconsistent with both the boundary survey and the Borough Ordinance.
- 1.4. Recommendation.** In accordance with NJAC 13:40-7.2(a)(1), a signed and sealed survey must be submitted to the reviewing governmental body when such information is transferred to a plan showing existing conditions. I recommend that the applicant and its design professionals secure a signed and sealed survey of the property and provide same for the Board file. I recommend that all existing and proposed zoning tabulations be updated to utilize only the lot area as set forth on the boundary survey and which is consistent with the Borough Ordinance.

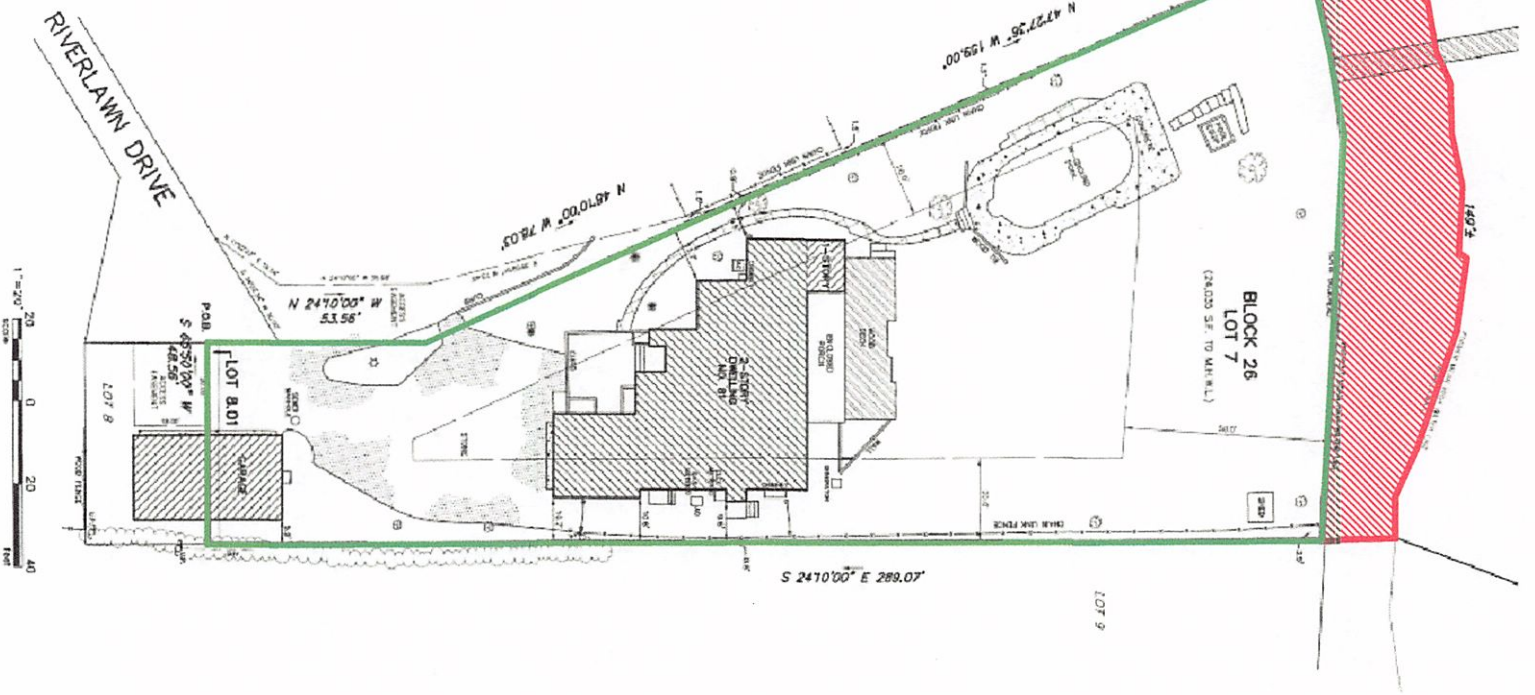
Should you have any questions or require additional information regarding the above, please do not hesitate to contact me.

Sincerely,  
Kennedy Consulting Engineers, LLC



James A. Kennedy, PE, PP  
Zoning Board Engineer

cc: Jennifer Johnson, Zoning Board Secretary  
Michael Irene, Esq., Zoning Board Attorney



3. Noncommercial television and radio antennas are regulated by subsection 30-7.20 of this chapter.  
(2002 Code § 16.28.110; Ord. No. B-434A § 3)

#### **30-7.12 Riparian Grants.**

Whenever a person acquires title to the land under water adjacent to his property by virtue of a riparian grant from the State of New Jersey, then the grant area shall automatically be zoned the same as the upland property adjacent to the grant, provided, however, that any part of this grant not filled, graded and stabilized pursuant to a valid construction permit, shall not be applicable to meeting the minimum lot area for the governing zone. (2002 Code § 16.28.120)

#### **30-7.13 Solid Waste and Recyclable Storage for Single- and Two-Family Homes.**

Solid wastes and recyclables from single- and two-family homes, if stored outdoors, shall be placed in metal or plastic receptacles with tight fitting covers.

Such receptacles shall not be stored or placed within front yard area prior to the time at which materials are permitted to be placed at the curblines for collection. Such receptacles may be stored in either rear or side yard areas, but if stored within a side yard area, they shall be screened from view of adjoining properties and street areas with planting or fencing. (2002 Code § 16.28.130)

#### **30-7.14 Outdoor Storage of Materials.**

No nonresidential use shall store materials of any kind outdoors in any district except in connection with the construction of a structure to be erected on the premises unless specifically permitted elsewhere in this chapter. (2002 Code § 16.28.140)

#### **30-7.15 Portable On-Demand Storage Structures.**

a. A portable on-demand storage structure may be utilized as a temporary structure within the Borough when in compliance with the standards of this section. Any use of such structures within the Borough not in compliance with this subsection shall be unlawful and subject to fines and penalties as permitted under this Code.

b. The term "portable on-demand storage structures " shall be defined to be any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.

12) Fees shall be nonrefundable and nontransferable.

13) Any applicant who is required under N.J.A.C. 13:40-2 to have his or her degree evaluated must pay via certified check or money order the actual cost of the evaluation.

- b) For a Certificate of Authorization issued pursuant to P.L. 1989, c. 276, general business corporations and limited liability companies offering to provide engineering or land surveying services in New Jersey shall pay a fee of \$120.00 for a biennial period, or \$60.00 per year. The late renewal fee for Certificate of Authorization is \$50.00. The reinstatement fee for Certificate of Authorization is \$125.00.

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## **SUBCHAPTER 7. PERMISSIBLE DIVISION OF RESPONSIBILITY IN SUBMISSION OF SITE PLANS AND MAJOR SUBDIVISION PLATS**

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### **13:40-7.1 GENERAL PROVISIONS**

- a) Definitions: All words, terms, and phrases shall be as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- b) Preparation and submission of the various elements of a preliminary or final site plan or major subdivision plat shall be within the professional scope of the various professions as listed in this subchapter.

### **13:40-7.2 DEPICTION OF EXISTING CONDITIONS ON A SITE PLAN**

- a) Survey: Showing existing conditions and exact location of physical features including metes and bounds, drainage, waterways, specific utility locations, and easements: By a land surveyor.
- 1) Survey information may be transferred to the site plan if duly noted as to the date of the survey, by whom, and for whom. A signed and sealed copy of the survey shall be submitted to the reviewing governmental body with the site plan submission.
- b) Vegetation, general flood plain determination or general location of utilities, buildings or structures: By an architect, planner, engineer, land surveyor, licensed landscape architect or other person acceptable to the reviewing governmental body.

### **13:40-7.3 PREPARATION OF SITE PLAN**

- a) The location of proposed buildings and their relationship to the site and the immediate environs: By an architect, engineer, or licensed landscape architect.