

TO: Borough of Fair Haven Zoning Board of Adjustment

FROM: Elena Gable, PP, AICP, CFM
Lauren Purdom, AICP

RE: Andrew Anderson
81 Riverlawn Drive
Block 26 Lot 7
Completeness & Planning Review v3

DATE: December 1, 2020

As requested, we have reviewed the following materials in preparation of our report for this application:

- 7-sheet set of architectural drawings entitled "Anderson Residence" prepared by Anderson Campanella, dated May 14, 2020, last revised November 18, 2020
- 1-sheet set of site plan drawings entitled "Anderson Residence Site Plan" prepared by Steven R. Krog Landscape Architect, P.C., dated May 14, 2020, last revised November 18, 2020;
- Topographic Survey prepared by Charles Surmonte, PE & PLS, dated August 1, 2017, last revised November 16, 2020;
- Zoning Officer Denial Letter dated June 15, 2020; and
- Zoning Board of Adjustment Application dated June 22, 2020

Completeness Review

The application has been checked for compliance with the Borough of Fair Haven Land Development Application checklist. The applicant has not completed all required submissions. The application is deemed incomplete subject to the Board granting waivers for completeness purposes only.

- Item #9- Completed Monmouth County Planning Board application- The applicant has indicated that this item is not applicable. We take no exception to the granting of this waiver for completeness purposes only as the property does not front on a county road.
- Item #10- Completed Freehold Soil Conservation District application- The applicant has indicated that this item is not applicable. We take no exception to the granting of this waiver for completeness purposes only.
- Item #11- Completed Monmouth County Health Department Application- The applicant has indicated that this requirement if not applicable. We take no exception to the granting

of this waiver for completeness only as the Monmouth County Health Department application only relates to public recreational bathing places, body art establishments, food establishments, pet shops, septic system construction and alterations, tobacco retail establishments, food and beverage vending machines and construction/alteration of private wells.

- Item #16- Copies of all easements, covenants and deed restrictions- The applicant has indicated that the application complies with this item. The applicant shall provide testimony pertaining to any and all easements, covenants and deed restrictions at the Zoning Board hearing.

The applicant has not submitted information per the Zoning Officer's letter dated June 15, 2020. In the letter, the Zoning Officer requests the Applicant provide the following:

- Provide any details of the proposed work (if any) to the detached garage.

The applicant shall address this item at the Zoning Board hearing.

Property and Project Description

The subject property is located at Lot 7 of Block 26, known as 81 Riverlawn Drive. The property sits on the Navesink River, between the Municipal Boat Ramp and the Fair Haven Yachtworks Marina. The property is approximately 24,035 square feet in area and is currently developed with a 2-story single-family dwelling with an attached garage, swimming pool and patios, detached garage, and associated driveway. Surrounding the property are other single-family homes.

The applicant is proposing several additions and renovations to the existing dwelling and property. On the first floor, the applicant is proposing to add a covered porch to the front façade and will be removing a portion of the existing study in the rear of the dwelling, as well as altering and reconfiguring the rear wall of the kitchen. The applicant is also proposing to expand the building footprint of the dwelling where the mudroom is located adjacent to the front façade to meet the rear wall of the attached garage. Bracketed pergolas are also proposed to be affixed to the front and rear elevations. In sum, the 1st floor will consist of a study, living room, rear covered porch, front covered porch, gallery, foyer, office, kitchen, dining room, and powder room.

The applicant is also proposing to remove the existing approximately 440 sq. ft. rear deck and is proposing to install a 323 sq. ft. rear patio in its place that is proposed to be at grade.

On the second floor, the applicant is proposing to enlarge bedroom #3, located at the rear of the dwelling adjacent to the Master Bedroom, and is adding an approximately 336-square-foot 2nd

floor addition above the attached garage that is proposed to be a gym. In total, the 2nd floor will consist of 3 bedrooms, 3 full bathrooms, a Master Bedroom suite, and a gym.

The applicant is in need of several bulk variances and the d(4) HFAR variance for the proposed improvements.

Zoning

The subject property is located within the R-30 Zone where single-family dwellings are a permitted use.

Bulk Standards for the R-30 Zone				
	Required	Existing	Proposed	Variance
Minimum Lot Area	30,000 sq. ft.	24,035 SF	24,035 SF	ENC
Minimum Lot Width/ Frontage	125 ft.	48.56 ft.	48.56 ft.	ENC
Minimum Lot Depth	200 ft.	289.25 ft.	289.25 ft.	-
Principal Building				
Minimum Front Yard Setback	50 ft.	± 84.5 ft.	± 81.1 ft.	-
Minimum Side Yard Setback (one)	20 ft.	± 9.6 ft. / ± 10.7 ft.	9.6 ft. / 9.5 ft.	YES / ENC
Minimum Side Yard Setback (both)	40 ft.	± 20.2 ft.	± 19.1 ft.	YES / ENC
Minimum Rear Setback	30 ft.	± 101.1 ft.	± 108.9 ft.	-
Maximum Building Height	35 ft.	32.5 ft.	32.5 ft.	-
Maximum Stories	2.5 stories	2.5 stories	2.5 stories	-
Maximum Habitable Floor Area Sq. Ft.	5,180 sq. ft.	4,152 sq. ft.	4,124 sq. ft.	-
Maximum Habitable Floor Area Ratio	0.15	0.17	0.17	YES
Maximum Building Coverage	20%	13.4%	14.4%	-
Maximum Lot Coverage	30%	33.3%	33.2%	ENC
Driveway coverage in front yard (single-family districts)	25%	53%	53%	ENC
Accessory Building and Structures				
Accessory Structure - Shed				
	Required	Existing	Proposed	Variance
Minimum Side Yard Setback - Shed	10 ft.	± 4.5 ft.	± 4.5 ft.	ENC
Minimum Rear Yard Setback - Shed	10 ft.	± 12 ft.	± 12 ft.	-
Maximum Height - Shed	15 ft.	< 15 ft.	< 15 ft.	-

Accessory Structure – Detached Garage				
	Required	Existing	Proposed	Variance
Minimum Side Yard Setback - Garage	10 ft.	± 5.9 ft.	± 5.9 ft.	ENC
Minimum Rear Yard Setback - Garage	10 ft.	± 250 ft.	± 250 ft.	-
Maximum Height - Garage	15 ft.	< 15 ft.	< 15 ft.	-
Accessory Structure - Swimming Pool				
Minimum Side Yard Setback - Pool	10 ft.	± 17 ft.	± 17 ft.	-
Minimum Rear Yard Setback - Pool	10 ft.	± 51.2 ft.	± 51.2 ft.	-

ENC: Existing Nonconforming Condition

Variances Required

A review of the application indicates that the property has the following existing nonconformities:

- Ordinance Section 30-5.1 Table C- Minimum lot area- Where the minimum required lot area is 30,000 square feet and 24,035 square feet is existing and proposed.
- Ordinance Section 30-5.1 Table C- Minimum lot width and frontage- Where the minimum required lot width and frontage are 125 feet, and 48.56 feet is existing and proposed. This existing nonconforming condition is proposed to remain unchanged.
- Ordinance Section 30-5.1 Table C- Minimum side yard setback for accessory structures- Where the minimum required side yard setback for accessory structures is 10 feet and the shed is setback approximately 4.5 feet and is proposed to remain unchanged.
- Ordinance Section 30-5.1 Table C- Minimum side yard setback for accessory structures- Where the minimum required side yard setback for accessory structures is 10 feet and the garage is setback approximately 5.9 feet and is proposed to remain unchanged.
- Ordinance Section 30-5.1 Table C- Maximum Lot Coverage- Where the maximum lot coverage is 30%, 33.3% is existing and 33.2% is proposed.
- Ordinance Section 30-7.8g – Maximum driveway impervious front yard coverage- Where 25 percent is maximum permitted driveway coverage in the front yard and 53 percent is existing and proposed.
- Ordinance Section 7.8a2 – Where detached accessory buildings are not permitted to be located within a front yard, and the existing detached garage is existing and proposed within the front yard.

- Ordinance 30-7.26b – Where storage for no more than three (3) vehicles are permitted in the R-30 Zone, and a total of four (4) garage doors are existing and proposed.

The application requires the following variances:

- Ordinance Section 30-5.1 Table C- Maximum Habitable Floor Area Ratio- Where the maximum habitable floor area ratio is 0.15 for the R-30 Zone, and 0.17 is existing and proposed.
- Ordinance Section 30-5.1 Table C- Minimum Single Side Yard Setback- Where the minimum required single side yard setback is 20 feet, where 9.6 feet and 10.7 feet is existing, and 9.6 feet and 9.5 feet are proposed.
- Ordinance Section 30-5.1 Table C- Minimum Combined Side Yard Setback- Where the minimum combined side yard setback is 40 feet, where 20.2 feet is existing, and 16.6 feet is proposed.

Planning Comments

1. The applicant is seeking a d(4) Floor Area Ratio variance to permit an increase in the permitted habitable floor area ratio. In order to grant a 'd' variance, the applicant must satisfy both the positive and negative criteria.

For a d(4) Floor Area Ratio variance, the applicant has a lesser burden of proof than a d(1) use variance. The applicant must demonstrate that the property can accommodate the problems associated with the proposed permitted use with a larger floor area than permitted by the ordinance. The applicant must also demonstrate that there will be no substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board may consider imposing conditions to ensure that the deviations from the FAR requirement do not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

2. In addition to the d(4) FAR variance, the applicant shall provide testimony addressing the positive and negative criteria for each variance being sought. It is the Applicant's responsibility to bear the burden of proof. In order to satisfy the positive and negative criteria for each 'c' variance enumerated above, the applicant should provide testimony that satisfies either the c(1) hardship criterion or c(2) flexible criterion as set forth in the MLUL.

- a. Positive criteria: There are two types of c variances- c(1) hardship and c(2) flexible variances.

The c(1) hardship criteria states that a “hardship” will occur if the variance is not granted. The hardship relates to the physical or topographical features of the property and cannot relate to financial or personal hardship. Hardship relating to property can include:

- i. Narrowness, shallowness, or irregular shape
- ii. An exceptional topographic condition
- iii. Other unique conditions or features affecting the property

The c(2) flexible variance states that by granting the variance, the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement and that the benefits will substantially outweigh any detriments.

- b. Negative criteria: The applicant must satisfy the two-prong test of the negative criteria; 1) the variance can be granted without substantial detriment to the public good; and 2) the variance can be granted without causing substantial detriment to the zone plan. The negative criteria focus on the potential impacts that the proposed use may have on the community.

The applicant's testimony regarding the negative criteria should address any potential impacts that the proposed improvements may have on the neighborhood, as well as how the development is consistent with, or in potential conflict with, both the zoning ordinance and the Master Plan of the Borough.

3. Master Plan

The Borough adopted its last Master Plan in 1991, and subsequent Reexamination Reports, with the most recent occurring in 2016. These planning documents set forth policies to guide the development in the Borough.

The 2016 Master Plan Reexamination Report included an objective of protecting and enhancing the existing character of the Borough and residential quality of the neighborhoods. Additionally, the 1997 and 2005 plans encouraged the Borough to pursue land use standards that reduce the creation of new large-scale single-family dwellings and inhibit additions to expand existing homes to a scale out of character with the surrounding neighborhood.

The applicant should provide testimony regarding the visual impact of the proposed development on neighboring properties, the existing setbacks and the building area of the surrounding neighboring dwellings as a means to address the negative criteria listed above.

4. It should be noted that the applicant received building permits to begin interior work on the dwelling and is seeking variance relief for the habitable floor area ratio, one and both side yard setbacks.
 - a. The applicant shall provide testimony pertaining to the building permits received.
5. Has the applicant considered reducing the size of the proposed additions or removing additional habitable floor area as a means to comply with the habitable floor area ratio?
 - a. We note that the applicant is proposing to remove a portion of the study of the 1st floor. However, by removing the entirety of the study on the 1st floor and one of the walk-in closets directly above it in the Master Bedroom, the habitable floor area would be reduced by approximately 278 square feet.
 - b. In order to comply with the HFAR, the dwelling would be required to have 3,605 sq. ft. of habitable floor space.
6. The applicant shall provide testimony confirming that the habitable floor area is calculated in accordance with Borough definitions, which is defined as, "the sum of the gross horizontal area of all the stories and half stories of a building as measured from the exterior face of exterior building walls, or from the center line of wall separating two buildings. In residential buildings, garages, attics, and cellars shall not be calculated as 'habitable floor area.' For a new dwelling, 50% of the area of an attached garage shall be calculated as 'habitable floor area.'"
7. We note the applicant is converting existing habitable space into a covered porch located to the rear of the dwelling. The applicant is also proposing to add a covered front porch to the dwelling. While not exceeding the habitable floor area square footage or contributing to the HFAR, these proposed additions and renovations contribute to the overall massing of the dwelling.
8. The applicant shall provide testimony pertaining to the attic and whether the attic is a story or a half-story pursuant to Borough definitions.

- a. A half-story is defined as "that portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such half-story."
 - b. Should the attic not be counted as a half-story, variance relief shall be required for exceeding the number of stories in the dwelling.
9. Is the applicant proposing to access the balcony space on the 2nd floor? It does not appear as though any doorways are proposed. The applicant shall confirm.
10. The applicant shall provide testimony pertaining to the building height, confirming that the building height is calculated in accordance with Borough definitions.
11. It appears that the detached garage can accommodate four (4) vehicles and the attached garage can accommodate two (2) vehicles. The applicant shall provide testimony addressing the existing conditions of the garages, including the number of vehicles that can be accommodated, as well as the location of the detached garage in relation to the property lines.
 - a. It appears as though half of the detached garage is located within the access easement on Lot 8.
 - b. Property tax records indicate that Lot 8 is under common ownership with Lot 6. Does the owner of the Lot 6 own a portion of the detached garage?
12. Has the applicant considered reducing the driveway coverage as a means to conform with the 25% impervious coverage in the front yard requirement as well as the lot coverage?
 - a. We note the applicant is reducing the lot coverage by approximately 22 square feet as a result of the improvements but continues to exceed the 30% lot coverage allotment.
13. The existing floor plans show an uncovered access on the east side of the building adjacent to the attached garage. However, the application and the Site Plan prepared by Steven Krog state that this is a new covered access. The applicant shall provide testimony regarding this condition and revise the drawings, as necessary.
 - a. In addition, there appears to be an existing entrance in the easterly side yard that is "bumped out" on the survey. This entrance is omitted from the Site Plan and the

existing/proposed floorplans, even though it is shown in the photographs. Is this access proposed to remain or be removed?

14. We recommend the applicant provide colorized renderings at the Zoning Board hearing and to provide testimony addressing the materials proposed for the dwelling's exterior.
15. The applicant shall provide testimony regarding any proposed landscaping improvements, as well as the removal of mature trees and whether tree removal permits are required.
16. The applicant shall provide testimony pertaining to any outside agency approvals that may be required, including NJDEP, CAFRA, Freehold Soil Conservation District, and Two Rivers Water Reclamation Authority.

Aerial Map of Property



Photographs of Property taken 7/22/2020





Photographs of subject property from Riverlawn Drive