

**TO:** Borough of Fair Haven Zoning Board of Adjustment

**FROM:** Elena Gable, PP, AICP, CFM  
Leigh Fleming, PP, AICP

**RE:** Christopher Shaw  
15 Buttonwood  
Block 72 Lot 15  
*Completeness & Bulk Variances v5*

**DATE:** May 5, 2021

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As requested, we have reviewed the following application materials:

- Zoning Board Application (ZB 20-08) and checklist received on August 25, 2020;
- Zoning Officer's Denial Letter, dated June 8, 2020;
- 1-page letter from Grasso Design Group, LLC, detailing existing and proposed square footage, dated June 11, 2020;
- 1-sheet Survey of Property, prepared by Thomas M. Ernst, dated January 31, 2020, revised December 21, 2020;
- 1-sheet set of Architectural Drawings entitled "The Shaw Residence, 15 Buttonwood Drive, Block 72, Lot 15, Fair Haven, New Jersey," prepared by Grasso Design Group, dated November 18, 2020;
- Letter from Edward McKenna, Jr., Esq, dated January 20, 2021;
- Photographs of property and dwelling, no date;
- Letter from Edward McKenna, Jr., Esq, dated February 22, 2021;
- Letter from Edward McKenna, Jr., Esq, dated April 7, 2021;
- 1-sheet set of Architectural Drawings entitled "The Shaw Residence," dated March 29, 2021;
- 1-page architectural rendering showing the 2<sup>nd</sup> floor overlay plan, no title, no date; and
- 1-page Survey of Property showing proposed improvements and calculations, no date.

#### **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; however, we take no exception to the Board granting the waivers for completeness purposes only.

- Item #9- Completed Monmouth County Planning Board Application- The applicant has requested a waiver for this item. We take no exception to the granting of the waiver for completeness purposes only as the property does not front on a County Road.
- Item #10- Completed Freehold Soil Conservation District (FSCD) Application- The applicant has requested a waiver for this item. We take no exception to the granting of the waiver for completeness purposes only, as it appears this requirement may not applicable because this project involves a disturbance of less than 5,000 square feet of soil.
- Item #11- Completed Monmouth County Health Department Application- The applicant has requested a waiver for this item. We take no exception to the granting of the waiver for completeness purposes 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 #37 – Schedule of Required Zone District Requirements – The applicant has requested a waiver for this item, noting that all of the variances necessary are included in the application.

### **Application Guidelines**

In addition to the above Items from the Application Checklist, the applicant has not submitted the following required items from the Application Guidelines:

- Location and type of proposed attic access – The applicant has requested a waiver for this item, noting that there will be a limited crawl space type attic above the Master Bedroom with an access panel in the master closet.
- Key Map showing all properties within 200 feet - The applicant has requested a waiver for this item noting that this is a residential application that does not involve any other properties and should not have any impact on any surrounding properties.

### **Property and Project Description**

The subject property is Lot 15 in Block 72, located at 15 Buttonwood Drive. The property is a 9,278 square foot irregularly shaped lot with frontage/access on Buttonwood Drive. The site is currently developed with a one and a half story single-family dwelling with an attached garage, an elevated brick patio in the rear of the dwelling, an asphalt driveway, and a shed in the rear yard.

The surrounding properties are other single-family dwellings. McCarter Pond abuts the rear of the property.

The applicant is proposing to renovate the existing one and a half story house and add a second story addition. The building footprint is proposed to remain unchanged.

The existing first floor contains a garage, dining room, living room, kitchen, laundry room, bathroom, one bedroom, and office. The existing dining room, living room, and kitchen are individual rooms closed off from each other. The applicant is proposing to reconfigure the first floor to eliminate walls between the kitchen, dining room, and living room, and switch the locations of the kitchen and dining room. This change results in the kitchen being located off of the garage, and the dining room across the "great room." The applicant is also proposing to relocate the laundry from the first floor to the second floor. The existing bathroom, bedroom and office are proposed to remain unchanged.

The existing second floor footprint is 592 square feet and consists of two bedrooms and one bathroom. The applicant is proposing to expand the second floor to 1,344 square feet and make the second floor a full second story. The proposed second floor consists of two bedrooms, a master bedroom, two bathrooms, and a laundry room.

**Zoning**

The property is located in the R-10B zone where single-family dwellings are a permitted use.

<b>Bulk Standards for the R-10B Zone</b>				
	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
<b>Lot Requirements</b>				
Minimum Lot Area	10,000 sq. ft.	9,278 sq. ft.	9,278 sq. ft.	ENC
Minimum Lot Width	100 feet	108.2 feet	108.2 feet	-
Minimum Lot Frontage	100 feet	108.2 feet	108.2 feet	-
Minimum Lot Depth	100 feet	87.08 feet	87.08 feet	ENC
<b>Principal Structure</b>				
Minimum Front Yard Setback	25 feet	26 feet	Approx. 26 feet	-
Minimum Side Yard Setback- One	10 feet	9.9 feet	9.9 feet	ENC/ <b>Variance</b>
Minimum Side Yard Setback- Both	26.5 feet	32.9 feet	32.9 feet	-

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Minimum Rear Setback	30 feet	26.1 feet to the dwelling; Approx. 10 feet to elevated patio	26.1 feet to the dwelling; Approx. 10 feet to elevated patio	ENC/ <b>Variance</b>
Maximum Building Height	32 feet	Approx. 21 feet	Approx. 21 feet	-
Maximum Stories	2.5	1.5	2	-
Maximum Building Coverage	35%	Approx. 18.9%	19.6%	-
Maximum Habitable Floor Area Ratio	0.28	0.19	0.28	-
Maximum Habitable Floor Area Sq. Ft.	3,220 sq. ft.	1,809 sq. ft.	2,561 sq. ft.	-
Maximum Lot Coverage	45%	40%	40.61%	-
<b>Accessory Structure - Shed</b>				
Minimum Rear Yard Setback	5 feet	6 feet	6 feet	-
Minimum Side Yard Setback	5 feet	1.5 feet	1.5 feet	ENC
Maximum Height	10 feet	Approx. 9 feet	Approx. 9 feet	-
Maximum Floor Area	100 sq. ft.	84 sq. ft.	84 sq. ft.	-
Note: The applicant has omitted the Schedule of Required Zone District Requirements with their application. Our office estimated many of the above existing and proposed dimensions based upon application materials.				

**Variations**

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

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Lot Area- The minimum required lot area is 10,000 square feet where 9,278 square feet is existing. This existing nonconforming condition is proposed to remain unchanged.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Lot Depth - The minimum required lot depth is 100 feet, where 87.08 feet is existing. This existing nonconforming condition is proposed to remain unchanged.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Shed Side Yard Setback- Where the minimum required side yard setback for sheds is 5 feet, where 1.5 feet is existing and not proposed to change.

The application requires the following variances:

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum Rear Yard Setback - The minimum required rear yard setback in the R-10B Zone is 30 feet, where 26 feet is existing. This existing nonconforming condition will be exacerbated based upon the proposed improvements.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements- Minimum One Side Yard Setback- The minimum required side yard setback in the R-10B Zone is 10 feet, where 9.9 feet is existing. This existing nonconforming condition will be exacerbated based upon the proposed improvements.

### **Planning Comments**

1. 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 variance can be granted without substantial detriment to the public good.

- 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 use may have on the neighborhood, as well as how the proposed use is consistent with, or in potential conflict with, both the zoning ordinance and the Master Plan of the Borough.

2. The applicant's submission includes conflicting information regarding the size of the lot. The submitted survey notes the area as 9,278 sq. ft., where the application materials note the lot area as 9,301 sq. ft. The applicant shall provide testimony addressing this item.
3. The survey depicts a 29.9-foot front yard setback from the front property line to the dwelling and a 26-foot setback to the front porch.
  - a. The revised survey does not include the rear yard setback to the brick patio. Pursuant to the Borough's Ordinance §30-7.8h Accessory Building and Structures states, "A porch, deck, patio, or similar structure designed to adjoin or as part of the principal building shall in all cases conform to the yard requirements for the principal building except where the structure has no roof and is constructed not more than six (6) inches above grade, it shall adhere to the yard requirements for an accessory structure. A porch, without a roof or structure above it, of less than one hundred (100) square feet in total size, inclusive of steps, is permitted in the front yard without regard to setback standards, provided that the porch contains a NJ UCC compliant stairway having not more than two risers, with an intermediate tread not exceeding 12 inches in depth."
  - b. We estimated that the rear yard setback to the rear patio is approximately 10 feet based upon the revised survey. The applicant shall provide testimony to confirm.
4. The applicant shall provide testimony pertaining to whether the proposed driveway occupies more than 25% of the front yard area pursuant to §30-7.8g Accessory Buildings and Structures.
5. The applicant shall provide testimony pertaining to the type of materials proposed for the exterior of the dwelling. Is the applicant proposing to maintain the existing materials?

6. The applicant shall confirm that proposed improvements are limited to the dwelling itself, and that no changes are proposed to the remainder of the site including the existing patio, shed, fencing, etc.
7. Does the applicant propose any landscaping or tree removal as part of the project? The applicant shall confirm that no trees will be removed as part of this application.
8. Are any changes proposed for utility connections? The Borough's Ordinance (§30-9a13) requires utility connections to be installed underground. We defer comment regarding utility connections to the Board Engineer.

**Aerial Map of Property**





**Photographs of Property taken 10/8/2020**



Photographs of existing dwelling from Buttonwood Drive



Neighboring property



Property across street