

TO: Borough of Fair Haven Zoning Board of Adjustment

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

RE: Feminello
2 Holly Lane
Block 79 Lot 32
Completeness, D(4) FAR Variance & Bulk Variances v2

DATE: February 5, 2021

As requested, we have reviewed the following application materials:

- Zoning Board Application (ZB 20-14) and checklist received on October 23, 2020;
- Zoning Officer's Denial Letter, dated August 5, 2020;
- 1-sheet Survey of property, prepared by Control Layouts, Inc., dated November 20, 2015;
- 7-sheet set of Architectural Drawings entitled "Proposed Renovation and Addition for Feminello, 2 Holly Lane, Fair Haven, NJ, Block 79, Lot 32," prepared by Robert W. Adler and Associates, dated April 21, 2020, revised December 15, 2020;
- Photographs of the property and neighboring properties, undated; and
- Transmittal from Robert W. Adler dated December 15, 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; 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 #16 – Copies of all easements, covenants and deed restrictions including metes and bounds descriptions, on or affecting the property in question- The applicant has requested a waiver for this item. We take no exception to the granting of the waiver for completeness purposes only.

Property and Project Description

The subject property is identified as Lot 32 in Block 79, located at 2 Holly Lane in the northern portion of the Borough, in close proximity to the Navesink River. The property is a 14,562 square foot interior lot with 117.55 feet of lot frontage along Holly Lane. The property is currently developed with a two-story single-family dwelling with an attached two-car garage. There is currently a stone driveway leading to the garage, which splits off into a "horseshoe" driveway, yielding two (2) curb cuts along the property's frontage. The property also has a paver patio to the rear of the dwelling and paver walkways within the rear and eastern side yard.

The applicant is proposing to renovate and enlarge the existing dwelling and is proposing to make improvements to the front yard and rear yard. The applicant is proposing to remove the existing paver patio and walkways within the rear and side yard and install a pool, associated patio, and an outdoor kitchen. Within the front yard, the applicant is proposing to remove the existing U-shaped driveway and install a conforming driveway. Proposed improvements to the dwelling include a 1-story addition on the eastern portion of the dwelling within the rear and eastern side yard, a 1-story addition to extend the existing attached garage approximately 3.6 feet toward the front yard, and is proposing a 2- story addition on the western portion in the rear of the dwelling. In addition, interior changes and reconfigurations are proposed as part of the project.

The existing first floor contains a two-car garage with a mechanical closet, a mudroom/laundry room, powder room, kitchen, dining room, family room, and living room. There is a covered porch on the front elevation of the dwelling. The applicant is proposing to construct a 1-story addition within the rear and eastern side yard setback to the existing dwelling that is approximately 353 square feet, a 1-story addition to extend the two-car garage approximately 3.6 feet toward the front yard that is approximately 83 square feet, and is proposing to modify the bay window located on the front façade. As a result of these additions, interior improvements include enlarging

the kitchen, separating the laundry room and mudroom, and adding a full bathroom, a walk-in pantry, and closet space. Other first floor improvements include the renovation and slight expansion of the covered porch/entrance, and the construction of a covered outdoor living area with a fireplace to the rear of the dwelling. Additionally, the applicant is proposing to add a new patio that will be an outdoor kitchen is proposing walkways and additional patio space connecting to the proposed pool.

The existing second floor contains a master bedroom, inclusive of a bathroom and an approximately 246 square foot walk-in closet, three additional bedrooms, and a hall bathroom, yielding a total of four bedrooms and two full bathrooms. The applicant is proposing an approximately 270 square foot 2nd story addition to the rear of the dwelling above the covered outdoor living space and is proposing a roof deck located off of the rear of the existing master bedroom over a portion of the proposed first floor addition. The master closet will be split in half to accommodate a “master foyer”, and the remainder of the floor will be reconfigured to add a study. The proposed second story addition will contain a bedroom and a full bathroom. The second floor will have a total of four (4) bedrooms, three (3) full bathrooms, a study, and a roof deck.

The exterior of the dwelling is proposed to be clad in brick veneer on the first floor and white cedar shingles on the second floor and accented with Azek trim and stone sills. The roof is proposed to be asphalt/fiberglass shingles, with metal seem roofing on some of the dormers.

Zoning

The property is located in the R-30 zone where single-family dwellings are a permitted use.

Bulk Standards for the R-30 Zone				
	Required	Existing	Proposed	Variance
Lot Requirements				
Minimum Lot Area	30,000 sq. ft.	14,562 sq. ft.	14,562 sq. ft.	ENC
Minimum Lot Width	125 feet	115.75 feet	115.75 feet	ENC
Minimum Lot Frontage	125 feet	117.55 feet	117.55 feet	ENC
Minimum Lot Depth	200 feet	112.25 feet	112.25 feet	ENC
Principal Structure				
Minimum Front Yard Setback	50 feet	45.58 feet	45.58 feet (porch) 47 feet (garage)*	ENC/YES
Minimum Side Yard Setback- One	20 feet	11.83 feet	11.75 feet	YES

Minimum Side Yard Setback- Both	40 feet	38.42 feet	38.33 feet	YES
Minimum Rear Setback	50 feet	40.58 feet	32.3 feet (second story) 30.08 feet (column of patio)	YES
Maximum Building Height	35 feet	27.83 feet	27.83 feet	-
Maximum Stories	2.5	2	2	-
Maximum Building Coverage	20%	12.79%	17.72%	-
Maximum Habitable Floor Area Ratio	0.15	0.1995	0.2479	YES
Maximum Habitable Floor Area Sq. Ft.	5,180 sq. ft.	2,876 sq. ft.	3,610 sq. ft.	-
Maximum Lot Coverage	30%	30.2%	38.14%	YES
Accessory Structure				
Minimum Rear Yard Setback	10 feet	N/A	11 feet	-
Minimum Side Yard Setback	10 feet	N/A	11.42 feet	-
Parking				
Minimum Number of Parking Spaces	3	4	4	-
Location of Parking	Not permitted in front yard setback	In front yard setback	In front yard setback	YES
Number of Driveways	1	2	1	-

* The applicant is proposing an extension of the garage along the front façade, exacerbating an existing non-conformity.

VariANCES

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 – A minimum lot area of 30,000 square feet is required, where 14,562 square feet exists and is not proposed to change.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Lot Width - A minimum lot width of 125 feet is required, where 115.75 feet exists and is not proposed to change.

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Lot Frontage -A minimum lot frontage of 125 feet is required, where 117.55 feet exists and is not proposed to change.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Lot Depth – A minimum lot depth of 200 feet is required, where 112.25 feet exists and is not proposed to change.

The application requires the following variances:

- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Front Yard Setback – A minimum 50-foot front yard setback is required, where 45.58 feet exists, and 45.58 is proposed. The applicant is also proposing a 47-foot front yard setback for the garage, exacerbating an existing non-conforming condition.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Side Yard Setback (one) -A minimum 20-foot side yard setback is required, where 11.83 feet exists and 11.75 feet is proposed, exacerbating an existing non-conforming condition.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements - Minimum Side Yard Setback (combined) – A minimum combined 40-foot side yard setback is required, where 38.42 feet exists and 38.33 feet is proposed, exacerbating an existing non-conforming condition.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements – Minimum Rear Yard Setback – A minimum 50-foot rear yard setback is required, where 40.58 feet exists and 30.08 feet is proposed, exacerbating an existing non-conforming condition.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements – Maximum Habitable Floor Area Ratio – A maximum 0.15 habitable floor area ratio is permitted, where 0.1995 exists, and 0.2479 is proposed, exacerbating an existing non-conforming condition.
- §30-5.1 Table C: Schedule of Area, Yard and Building Requirements – Maximum Lot Coverage – A maximum of 30% lot coverage is permitted, where 30.2% exists and 38.14% is proposed, exacerbating an existing non-conforming condition.
- §30-9.2.b.1(f) – Parking in the Front Yard – All required residential parking shall be located behind the front yard setback line, where the applicant is proposing parking spaces within the front yard setback.

Planning Comments

Variances

1. The applicant is seeking a d(4) Floor Area Ratio variance to permit an increase in the permitted 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 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 does not cause substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

2. 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:
- i. The variance can be granted without substantial detriment to the public good; and
 - ii. The variance can be granted without causing substantial detriment to the zone plan.

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

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 Borough 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.

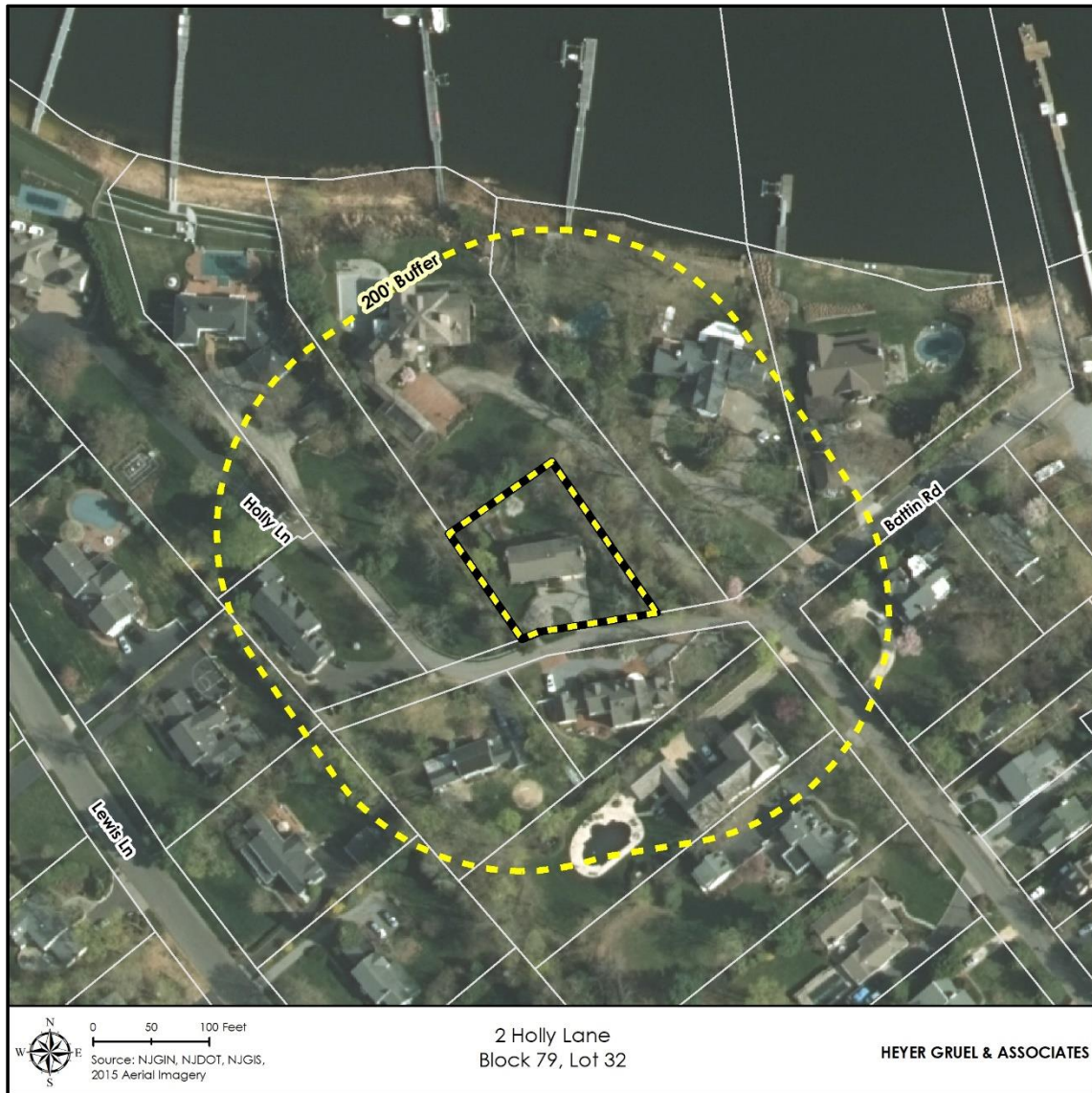
The applicant should provide testimony regarding the visual impact of the proposed development on neighboring properties, the existing setbacks and the building area of the surrounding neighboring dwellings as a means to address the negative criteria listed above.

4. The applicant shall confirm that the habitable floor area is calculated in accordance with Borough definitions.
5. The applicant shall confirm that the building height is calculated in accordance with Borough definitions.

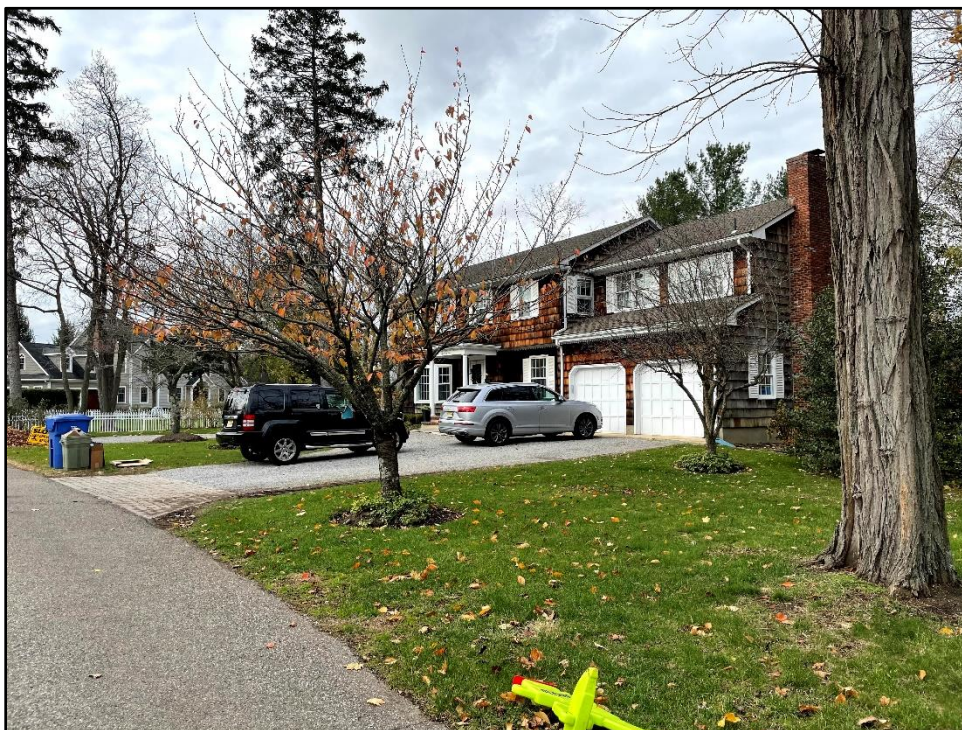
- a. According to the elevations submitted with the application, there appears to be a change in grade on the property. However, the submitted survey does not show spot elevations. The applicant shall provide testimony to clarify.
6. The applicant shall provide testimony pertaining to whether there is a basement or a cellar in the building pursuant to Borough definitions. It should be noted that the area of the basement is included in the habitable floor area calculation.
7. The applicant requires a variance for the location of parking spaces. The Borough Ordinance defines parking space as "an off-street space provided for the parking of a motor vehicle exclusive of driveways or access drives, either within a structure or garage or in the open or as may be otherwise defined in this chapter." The Ordinance also requires all parking spaces to be located behind the front setback line. The application includes a two-car attached garage, which encroaches approximately 3 feet into the front yard and two (2) spaces within the front yard setback.
 - a. Our office notes that Holly Lane has a 20-foot-wide right-of-way and on-street parking is not feasible.
8. The applicant requires front yard variance relief for the expansion and extension of the existing two-car garage. The applicant shall provide testimony regarding the necessity of this expansion.
9. The applicant requires variance relief for the proposed 38.14% lot coverage, where 30% is permitted. Has the applicant considered reducing the size of the proposed patio, pool, and outdoor kitchen to decrease the severity of the required variance?
 - a. We note that the applicant is removing impervious coverage within the front yard.
10. Per Ordinance §30-9.2.b.6(6), properties with a lot width of less than 150 feet are only permitted one driveway. Our office notes that the submitted plans indicate the applicant will be removing the existing horseshoe driveway, eliminating a non-conforming condition.
11. The applicant requires variance relief for habitable floor area ratio. The applicant is proposing several additions on the first and second floors and extensive internal renovations to the dwelling. Has the applicant considered reducing the size of the additions as a means to better conform with the HFAR? As a result of the proposed additions, the applicant is proposing an additional 734 square feet of habitable floor area, resulting in a four (4) bedroom, four (4) bathroom house with a study.

- a. The application notes that if the lot were in the R-10, R-10A, or R-10B zones, the project would be compliant with the HFAR. The applicant neglects to note that the project, which contains 3,610 square feet of habitable floor area, would exceed the permitted habitable floor area in each of those aforementioned zones.
 - b. Has the applicant considered reducing the size of proposed additions and considered repurposing the Master Bedroom foyer/closet space on the 2nd floor as a means to reduce the habitable floor area?
12. The applicant shall provide testimony pertaining to the type of materials and colors proposed for the exterior of the dwelling. If available, the applicant shall bring a colorized rendering of the dwelling to the meeting.
 13. Has the applicant considered simplifying the roof lines?
 14. Does the applicant propose any landscaping or tree removal as part of the project?
 15. The applicant shall provide testimony confirming the ground cover materials within the front yard.
 16. The First Floor Plan (sheet 3 of the architectural drawings) shows an area between the front patio and the front wall of the dining room that is textured differently than the surrounding area. What is this area?
 17. 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 11/25/2020



Photographs of the subject property



Property across Holly Lane



Entrance and width of Holly Lane