

**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 v1*

**DATE:** December 7, 2020

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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.; and
- Photographs of the property and neighboring properties, undated.

### **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 **incomplete**.

- 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. It is unclear whether the applicant is proposing to disturb more than 5,000 square feet of soil. The applicant shall provide testimony addressing this item.
- 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. The applicant shall provide testimony addressing this item at the hearing.

### **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:

- Complete floor plans showing existing and proposed conditions with string dimensions. The applicant has not requested a waiver for this item. The applicant shall revise the existing floor plans to include string dimensions and provide string dimensions to all sides of the existing and proposed floor plans.
- Elevations of all sides of the structure(s) with string dimensions. The applicant has not requested a waiver for this item. The applicant shall revise the elevations to include string dimensions. We recommend the applicant provide string dimensions indicating the total building height and the extent of each of the floors including the basement/cellar.
- Detail as to calculation of habitable floor area. The applicant has submitted the detail, but it is incorrect. See planning comment below regarding habitable floor area.

### **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. A pool compliant fence is proposed to extend from the sides of the dwelling and wrap around the rear yard. 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 of the dwelling in the rear. In addition, interior changes and reconfigurations are proposed as part of the project.

In total, the 1<sup>st</sup> floor will consist of the existing 2-car garage, dining room, living room, family room and will also include the expanded kitchen, renovated/relocated mud room and laundry room, a new pantry, and new full bathroom. The applicant is also proposing to add a new covered outdoor living space.

On the 2<sup>nd</sup> floor, the applicant is proposing an approximately 270 square foot addition to the rear of the dwelling above the covered outdoor living space and is proposing a roof deck located off 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.

<b>Bulk Standards for the R-30 Zone</b>				
	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
<b>Lot Requirements</b>				
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

<b>Principal Structure</b>				
	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Minimum Front Yard Setback	50 feet	45.58 feet	45.58 feet (porch) 47 feet (garage)*	<b>ENC/YES</b>
Minimum Side Yard Setback- One	20 feet	11.83 feet	11.75 feet	<b>YES</b>
Minimum Side Yard Setback- Both	40 feet	38.42 feet	38.33 feet	<b>YES</b>
Minimum Rear Setback	50 feet	40.58 feet	32.3 feet (second story) 30.08 feet (column of patio)	<b>YES</b>
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	<b>YES</b>
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%	<b>YES</b>
<b>Accessory Structure</b>				
Minimum Rear Yard Setback	10 feet	N/A	11 feet	-
Minimum Side Yard Setback	10 feet	N/A	11.42 feet	-
<b>Parking</b>				
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	<b>YES</b>
Number of Driveways	1	2	1	-

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

\*\*The applicant has incorrectly calculated habitable floor area. See planning comment below.

## **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 is proposed. The applicant is also proposing a 47-foot front yard setback to the expanded garage, where approximately 50.5 feet exists, exacerbating a preexisting nonconforming 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.
- §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.

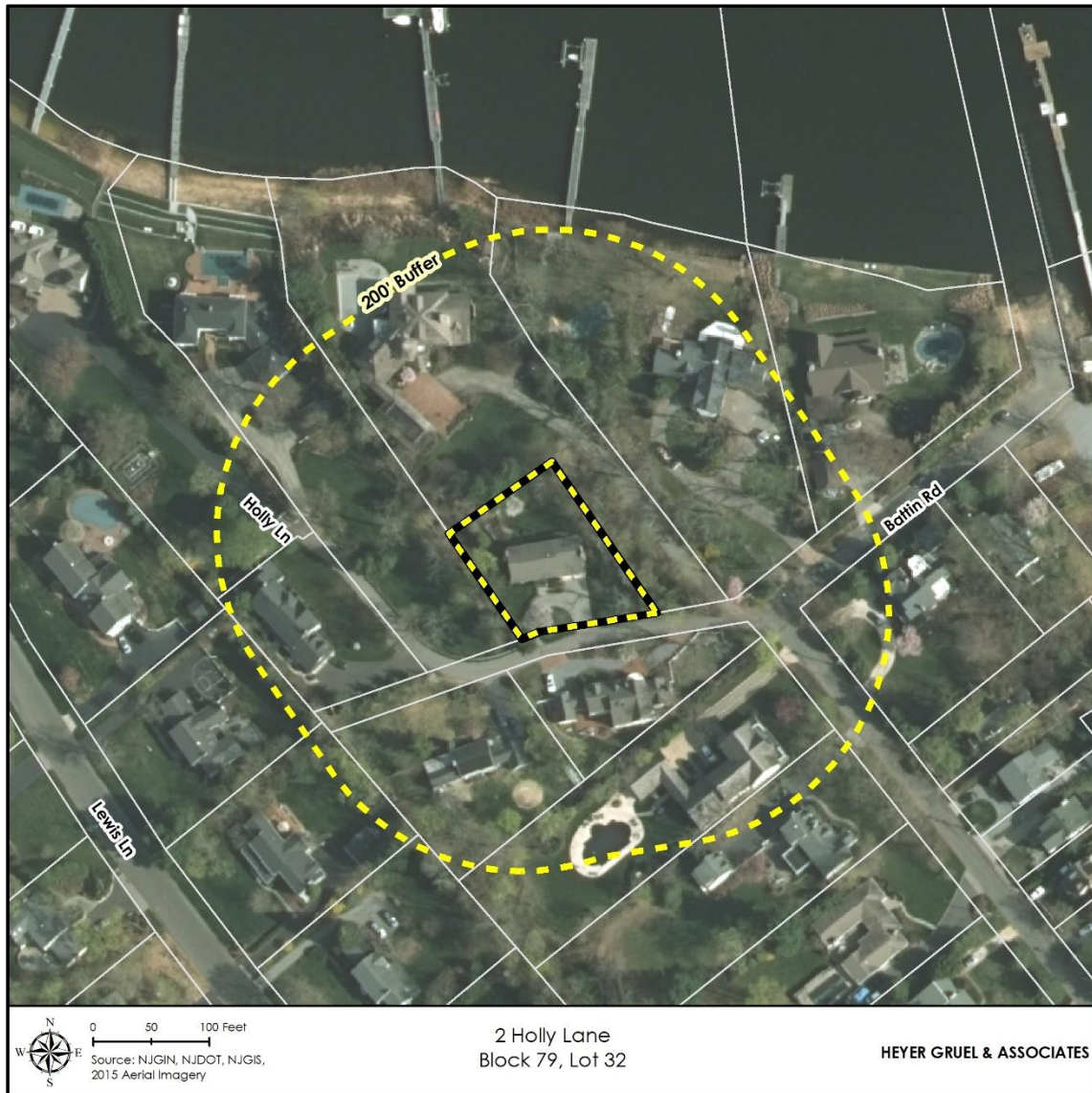
4. The applicant has incorrectly calculated the habitable floor area and has included the existing and proposed attached garage within these calculations. Habitable floor area is defined as, "The sum of the gross horizontal area of all the stories and half stories of a building as measured from the exterior 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."
  - a. We recommend the applicant provide a diagram of the dwelling by floor which shows the areas included in the calculation. We further recommend that existing and proposed diagrams be provided.
  - b. We note the applicant submitted the breakdown of habitable floor area, but it is difficult to determine the areas that are described.
  - c. Furthermore, the applicant shall also review the definition of habitable room, which is defined as, "Any room within a building used for the purpose of sleeping, eating, preparation of food, offices, selling of merchandise, public gatherings, or assembly lobbies. All habitable rooms within a dwelling unit shall have natural light, ventilation, and heat. Within a dwelling, garages, porches, cellars, and utility rooms are not considered to be 'habitable rooms.'"
5. The applicant has incorrectly identified the proposed side yard setback (both) in the bulk chart submitted with the architectural drawings. The applicant shall revise the plans accordingly.
6. The application to the Zoning Board of Adjustment contains differing information regarding the building setbacks and off-street parking than what is provided in the bulk chart on the architectural drawings. The applicant shall provide testimony to clarify.
7. The applicant shall confirm that the building height is calculated in accordance with Borough definitions.



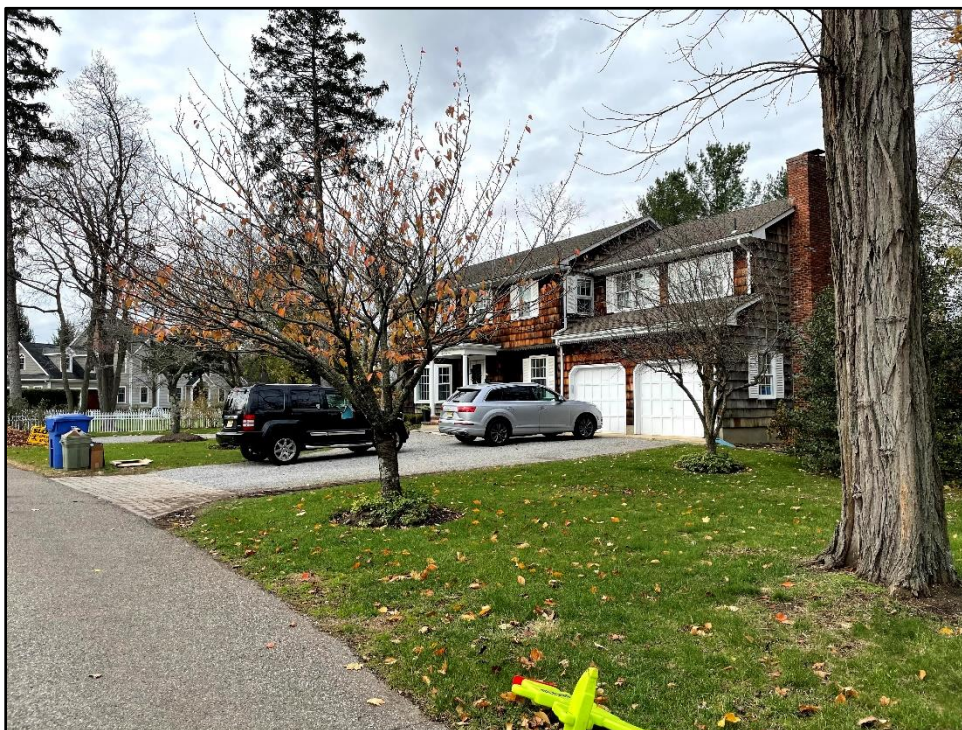
- a. According to the elevations submitted with the application, there appears to be a change in grade on the property. However, the submitted survey does not show spot elevations. The applicant shall clarify and provide details.
8. The applicant shall provide testimony pertaining to whether there is a basement or a cellar in the building pursuant to Borough definitions. It should be noted that basements are included in the habitable floor area calculation.
  - a. Based upon the submitted elevations, it is difficult to determine the amount of basement/cellar space that is above grade. The applicant shall indicate the extent of the basement/cellar on the elevations.
9. The applicant requires a variance for the location of parking spaces. The Borough Ordinance defines a 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.
10. 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.
11. 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, outdoor kitchen, and/or additions to decrease the severity of the required variance?
  - a. We note that the applicant is removing impervious coverage within the front yard.
12. 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.

13. 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.
14. Has the applicant considered simplifying the roof lines?
15. 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.
16. The applicant shall provide testimony confirming the ground cover materials for the front yard.
17. The applicant shall provide testimony pertaining to the color, materials, and aesthetics of the proposed pool compliant fence.
  - a. No details have been provided.
18. 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.
19. The applicant shall provide testimony pertaining to whether outside agency approval is required, including Freehold Soil Conservation Service.

**Aerial Map of Property**



**Photographs of Property taken 11/25/2020**



Photographs of the subject property



Property across Holly Lane (5 Holly Lane)



Adjacent lot on Holly Lane (28 Holly Lane)



Entrance and width of Holly Lane