

FAIR HAVEN ZONING BOARD OF ADJUSTMENT

Regular Meeting Minutes September 5, 2019

The meeting was called to order at 7:23 by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act Statement (attached), followed by the pledge to the flag. Prior to the start of the meeting Dr. Sam Laufer was sworn in as a member of the Board.

1. ROLL CALL

Present: Mr. Neczesny Mrs. Quigley, Mr. Ryan, Mr. Schiavetti, Dr. Laufer, Mrs. Neff, Mr. Ludman, Mr. Lehder

Absent: Mr. Ridgeway

Also Present: Mr. Irene, Board Attorney, Ms. Gable, Board Planner

2. OLD BUSINESS

Huber – Block 27, Lot 68, 15 Haggars Lane – Application for an addition

Al Shissias, Andrea Huber and Elena Gable were sworn.

The Chair explained the need for 5 votes and noted that only 6 of the Board members eligible to vote on the application were present. The applicant was given the option to carry and chose to proceed tonight.

Mr. Shissias stated that plans had been revised reducing the floor area and lot coverage but still requiring variances. **Ex. A- 8** – revised plans prepared by Mr. Shissias, dated 8/27/2019, **Ex. A-9** –photo taken by Mr. Shissias and 2 sheet plan with alternative floor plan and elevation, labeled Z4- alternate design. The previous plan required variances for exacerbating front yard setback, increasing rear yard setback, maximum lot coverage, and FAR. He is proposing removal of the side wall to reduce lot coverage. Referring to sheet Z4, Mr. Shissias said the master bedroom has been moved over the kitchen making access more awkward. The bulk moved from the neighbor's side. The floor area is slightly smaller but still exceeds the FAR. The side yard setback no longer requires a variance. The design is cumbersome, adds 300 sq. ft. instead of 400 sq. ft, and the lot coverage is not increased. It is less efficient, more expensive and has a less desirable visual impact. The preferred plan shows about 19' between the house and the neighbor's. Referring to A-8, sheet Z3, the wall has been pushed back, a roofline added that will reduce the mass between the floors, reduce lot coverage 114 sq. ft. from pre-existing, removing the walk. For aesthetic purposed the gable is extended, hiding the mass appearance of the addition. Functionally the bedroom is at the top of the stairs. It is a cleaner addition. The impact of the courtyard is reduced.

Public Comment

Kelly Duddy, Battin Rd, was sworn and spoke in support of the plan.
There were no further comments from the public.

Mr. Neczesny stated that moving the bulk was not optimal, enough to mitigate impact on neighbor. Additional window were good, less intrusion on air and open space.

Mrs. Neff said the alternate plan could be nicer. The chosen plan makes more sense.

Mr. Schiavetti said the water issue created by the roof in the alternate plan was a significant consideration. He appreciated the proposed plan with the setback and dropped ridge height and noted this addresses air, light and open space.

Mr. Ryan agreed with Mr. Schiavetti in appreciating the efforts made with the setbacks and added that the alternate plan didn't make sense.

Mrs. Quigley said the proposal identified the Board's concerns. She is satisfied with the efforts to consider the neighbors and the interior flow of the plan.

Mr. Ludman said it was helpful to see the interior plans.

Mr. Lehder noted the improved side yard setback and said it was consistent with the R-5 zone. The end result is an addition that makes sense.

MOTION Neczesny, second Quigley, to approve the application, subject to complying with the recommendations in the HGA review.

In Favor: Neczesny, Quigley, Ryan, Schiavetti, Lehder

Opposed: Neff

The Board recessed briefly at 8:29. Upon return, roll call indicated that all Board members returned to the dais. Mrs. Neff then recused herself from the next application and left the dais.

Gilbertson – Block 27, Lots 25 & 70 – 96 Battin Rd. – Application for an addition

It was determined that the re-notice was in order and the Board has jurisdiction.

Theresa Mitola, Battin Rd, stated that the new notice was inadequate, it doesn't mention a variance needed for lot area. Mark Aikins, Attorney for the applicant stated that the lots are merged and no variance is needed. The question was then raised regarding the second building – was it a cottage or an accessory building? Mr. Irene reviewed the notice.

Ms. Gable and Mrs. Gilbertson were sworn. Mrs. Gilbertson stated they bought the property in 2003. The lots were consolidated into one. The home had burned down in the 70's. Some of the original foundation remains.

Ex. A-1 – Zb application, **A-2** – MLS sheet describing the rental opportunity, **A-3** – copy of deed.

There is a need to establish continuous occupancy of the 2nd house. A CO was issued for the main house. Peter Gilbertson was sworn. He stated there was a smoke detector inspection of the rear house at the time of closing. Mr. Aikins noted an error – **Ex. A-4** – smoke detection inspection of the front house. The rear house has not been occupied since 2013. Mr. Aikins stated that case law doesn't mean abandonment. Mr. Irene noted it still has to be established that this is a permitted use. The applicant has to determine the second structure is legally rented. Otherwise a D-1 use variance is needed and it may be necessary to re-notice. It was noted that the applicant applied to the Zoning Board in 2005 for a deck but no records have been found. Mr. Irene suggested they file an OPRA request. Mr. Aikins requested a brief recess.

In the absence of the applicant and his attorney, the Board dealt with the **Administrative Items**.

MOTION Quigley, second Ludman, to approve the Weimer resolution

In Favor: Quigley, Ryan, Schiavetti, Ludman

Opposed: None

MOTION Quigley, second Schiavetti, to approve the minutes of the August meeting

In Favor: Quigley, Ryan, Schiavetti, Ludman, Neff

Opposed: None

MOTION Neczesny, second Lehder, to approve the resolution adopting the 2018 ZB Annual Report

In Favor: Neczesny, Quigley, Ryan, Schiavetti, Laufer, Ludman, Lehder

Opposed: None

Meeting paused at 9:50, awaiting applicant's return. Resumed at 9:53 with all Board members returning and Mrs. Neff recusing herself.

It was noted that information was found regarding the ZB approval for the deck in 2005. Two old surveys were also found. Additional found information will be made available to Mr. Aikins, It was noted that he may also need to search for additional information regarding the merger of the two lots. Mr. Aikins requested that the application be carried to the October meeting without need for re-notice.

MOTION Lehder, second Neczesny to carry the application to October without need for re-notice, unless there is a shift to a D-1 variance in which case re-notice is needed.

In Favor: Neczesny, Quigley, Ryan, Schiavetti, Laufer, Ludman, Lehder

Opposed: None

MOTION Neczesny, second Lehder, to go into Executive Session to discuss pending litigation

In Favor: Neczesny, Quigley, Ryan, Schiavetti, Laufer, Ludman, Lehder

Opposed: None

Board went into Executive Session at 10:12 PM.

Board returned from Executive Session at 10:38 with all members returning to the dais.

MOTION to adjourn passed unanimously by voice vote.

Meeting adjourned at 10:39 PM.

Respectfully submitted,

Judy Fuller,
Board Secretary

Public Announcement of Compliance

This is a regular meeting of the Fair Haven Zoning Board of Adjustment. Adequate notice of this meeting has been given pursuant to the provisions of the Open Public Meetings Act. At the time of the Board reorganization in January of this year, the Board adopted its regular meeting schedule for the year. Notice of the schedule of the Board's regular meetings was sent to and published in the Asbury Park Press, and was also sent to the Two River Times and the Star Ledger. Tonight's meeting was listed in the Notice of the schedule of regular meetings. That Notice was also posted on the bulletin board in Borough Hall, and has remained continuously posted there as required by the Statute. In addition, a copy of the Notice is and has been available to the public and is on file in the Office of the Borough Clerk. A copy of the Notice has also been sent to such members of the public as have requested such information in accordance with the statute. Adequate notice having been given, the Board Secretary is directed to include this statement in the minutes of this meeting.