

FAIR HAVEN ZONING BOARD OF ADJUSTMENT

Regular Meeting Minutes November 14, 2019

The meeting was called to order at 7:15 by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act Statement (attached), followed by the pledge to the flag.

1. ROLL CALL

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

Absent: Mr. Neczesny (arrived 7:21), Mr. Ridgeway, Mrs. Neff

Also Present: Mr. Irene, Board Attorney, Mr. Baree, Board Planner

2. NEW BUSINESS

Daponte – Block 46, Lot 4, 34 Hendrickson, R-10 zone – Application for front porch – variances required for front yard setback.

Mr. Ryan recused himself and left the dais. Notices were in order and the Board has jurisdiction to hear the application. The following were offered into exhibit: **A-1** – survey prepared by Lakeland Surveying, dated 3/31/17, **A-2** Architectural plans prepared by Alec Shissias, dated 7/19/19 – 2 sheets. Mr. D’Aponte and Mr. Shissias were sworn. Mr. Baree was sworn.

Mr. Neczesny arrived at 7:21.

Mr. D’Aponte told the Board he was looking to add a front porch. Mr. Shissias stated the house has an existing front yard setback of 31.3’, is built off existing foundation with new foundation for the 2nd story addition. He is proposing to remove the current pad and steps. **Ex. A-3** – photo of the front of the house. The plan would be for an open porch to the end of the 2nd story addition adding 10’11 ¼ “ to fascia board, 6’ to front door. The maximum number of risers would be 5, for four more feet. **Ex. A-4-** aerial photo of neighboring homes. There is no specific landscaping plan but they will be putting in landscaping along the foundation. The applicant had not objection to conditioning approval on saving the tree in the front. The porch railing will be the same style as the house.

There were no questions or comments from the public.

Mr. Schiavetti had concern about the front yard setback, noting there was no opportunity to minimize bulk as is the case with new construction.

Mr. Neczesny stated the old foundation causes hardship.

Mrs. Quigley thought the issue was di minimus.

Mr. Lehder stated the impact could be mitigated by the tree, there is a balance between aesthetics and encroaching.

MOTION Neczesny, second Ludman, to approve the application with the condition that the tree be protected and maintained, landscaping along the foundation to left and right of front door, and appropriate railing. If the tree eventually fails it should be replaced with a tree of 4' caliper.

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

Opposed: None

Mr. Ryan returned to the dais.

3. OLD BUSINESS

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

Mr. Baree was sworn. Notices were determined to be in order. Rose Greco, 63 Riverlawn questioned the content of the notice. Mr. Irene thought the notice was specific, the second dwelling has been abandoned therefore no D variance is required, only bulk variances are requested. Mrs. Greco said she had questions about how the 2nd house is used. Theresa Mitola, Battin Rd, also expressed concern. Mr. Aikins, representing the applicant stated they were getting into the merits of the application. Mr. Irene stated the Board takes jurisdiction.

Mr. Aikins stipulated that the cottage note by used as a secondary residence. The property was subdivided into one lot in 1907. He has no knowledge of how the lot numbers changed on the tax map. Mr. Irene stated they would need a deed of consolidation and deed restriction regarding the use. There followed discussion regarding what meets the definition of access structure, dwelling, how it is used. Dr. Laufer noted the presence of two mailboxes. There are two addresses but no separate driveway.

James Daley, Keyport, was sworn and his credentials as a licensed architect were accepted by the Board. **Ex. A-5** – Plans prepared by Mr. Daley with revision date 10/18/19, 3 sheets. Mr. Daley noted that the only change is incorporating the handwritten notes. He reviewed the plans noting that the footprint (including the deck) is maintained but they are building up. He said the original foundation is over 100 years old. **Ex. A-6** is a color enhanced version of sheet A-3.1 of Ex. A-5. The mud room is located over the deck. Variances are needed for one side yard, the total side yard and the HFA-including the accessory building. The roof pitch is changed slightly but the plate heights aren't raised. The final height is 30.5. The side yard setback is 8'7" at the front, 7.3 at the rear because the house is set at an angle. The combined side yard total is 11'3". **Ex. A-7** – Survey prepared by Santry, dated 8/30/18.

Jason Fichter, InSite Engineering, Wall, was sworn and his credentials as both licensed Engineer and Planner were accepted by the Board. **Ex. A-8** – Plan exhibit prepared under his direction A GIS with overlay of the tax map. Addressing the variances, he said in regard to the HFA, this is a C2 but somewhat C1 as well. It is not a monster home, there is a lot of vegetation. Building and lot coverage both fall well within what is allowed and the structure is appropriate for the lot and the neighborhood. The side yard variance is an exacerbation of an existing non-conformity. Intensity is not changed in terms of appearance from the rear. The plan is appropriate development that promotes the general welfare. Safety is secured and light, air and open space are essentially unchanged. The one story addition on the south complies with the side setback.

In terms of negative criteria, Mr. Fichter noted this is not a demo and preserves the character. The intent of the Master Plan is met. Mass is controlled. Negatives do not rise to substantial detriments. **Ex. A-9** – google aerial photo prepared by InSite with a solid gray bar illustrating what size house would be permitted if there was no cottage.

Mr. Schiavetti stated the accessory structure can't be over 40% of the first floor of the primary structure. Mr. Irene stated this was a pre-existing nonconformity.

Ex. A-10 Sanborn map from 1922. **Ex. A-11** for photos of current conditions taken by Mrs. Gilbertson- 1 – street view, 2 – behind the house with view of garage and cottage, 3 – back to cottage, showing rear of house where addition would go, 4 – view of trees around cottage.

Comments from the Public

Rose Greco, 63 Riverlawn, was sworn. She stated the plans had a more attractive façade. She said the 4th creek was an essential watershed of Fair Haven and was concerned about an increase in run-off with a steeper roof. Intense use shouldn't be exacerbated. Mr. Fichter stated that they are under the permitted lot coverage. All of the building is on existing impervious coverage. No dry well is planned. He stated 4th creek was a tidal water body.

Anna Anttonen, 92 Battin, was sworn. She stated she had seen the plans and she thinks they will lend something to the block and the town as a whole.

Theresa Mitola, 100 Battin, was sworn. She referred to the cottage as a dwelling. She said it was in bad condition and had been improved over time. Referring to the Sanborn map (A-10) she said the other lots had 2 dwellings but this was the only one that remained. The neighboring house went to the Zoning Board and is smaller. The applicant's house is the only one that is 30' wide and is the only 2 car garage. She said most of her windows will face the proposed structure. This is a full house renovation with the bulk of the new on her side. **Ex TM-1** – elevation with blue line showing current structure, red line new roof line. **Ex. TM 2** – photo of plan with red line showing growth. Mr. Daley stated the footprint is not changing. **Ex. TM 3** – figures for a lot that is 50 x 127.65. Mr. Aikins objected, stating these figures could not be used for lot 25.

The Board recessed at 9:57 and returned at 10:05. Roll call indicated all Board members returned to the dais.

The Board discussed the use of the second structure. Mrs. Mitola still sees it as a second dwelling. Mr. Lehder stated the Board is aware of this but what is their jurisdiction? The Board could ask for a deed restriction. Mrs. Quigley stated that the applicant abandoned an attempt to have permission to keep two dwellings. The condition of the structure would trigger enforcement. **Ex. TM-4** – for ID only – unsigned, unsealed survey. Mrs. Mitola thinks improvements to the cottage were permitted. They are putting in egress and patio closer to her house. **TM 5**- rendering of the view. **TM 6** –Photo of Mitola driveway apron with sprinkler. **TM 7** – photo of both driveways taken in August. **TM 8** -4 photos – 1 gutter leader and 3 photos of water pooling, taken in September. **TM 9** – photo of fence along common property line.

Mr. Ludman asked about the drainage problem.

Mr. Aikins asked Mrs. Mitola if moving the AC would be an improvement and was told it would. Can dry wells mitigate? She didn't know. Can sprinkler condition be corrected? Yes. Is balcony within the setback? She didn't know.

Ilene O'Hern 20 Fairwaters Lane, was sworn. She said it was positive that the Gilbertsons decided to stay in town and to renovate rather than tear down.

Brian Murphy, 108 Battin, was sworn. He has no concerns about homes being improved. He is concerned that the applicant didn't talk to the Mitolas or think about the bulk, consider the impact on the neighbors.

There were no further comments from the public.

While the applicants and their professionals conferred the following Administrative Items were acted on.

MOTION Neczesny, second Laufer, to approve the DelTin resolution.

In Favor: Neczesny, Quigley, Ryan, Laufer

Opposed: None

MOTION Neczesny, second Quigley, to approve the minutes of the October meeting

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

Opposed: None

MOTION Neczesny, second Quigley, to dismiss the application of the Fair Haven Yachtworks as a result of their attorney's letter

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

Opposed: None

The proposed calendar for 2020 was discussed.

Mr. Aikins returned and stated they were looking for guidance from the Board in regard to the setbacks. Mr. Lehder stated that the Board hadn't heard testimony from the architect regarding efforts to move it back. Mr. Aikins requested to carry the matter to the December meeting, granting an extension of time.

MOTION Lehder, second Neczesny, to carry the matter to the December meeting with no need for further notice and granting an extension of time.

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

Opposed: None

MOTION to adjourn made second and approved unanimously by voice vote.

Meeting adjourned at 11:05 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.