

## **FAIR HAVEN ZONING BOARD OF ADJUSTMENT**

### **Regular Meeting Minutes - July 9<sup>th</sup>, 2020 – Virtual Meeting via Zoom Platform due to the COVID-19/Coronavirus Pandemic.**

The meeting was called to order at 7:16pm by Mr. Lehder, Chair, with a reading of the Open Public Meetings Act Statement (below), followed by the pledge to the flag.

#### **1. ROLL CALL**

Present: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer, Mr. Kinsella, Mrs. Neff, and Mr. Lehder

Absent: None

Also, Present: Mr. Irene, Board Attorney; Ms. Gable, Board Planner; and Mrs. Allyson Cinquegrana, Borough Clerk.

Mr. Irene, Board Attorney, noted for the record that in addition to the initial Open Public Meetings Act notice issued at the beginning of the year, the Board also issued a supplemental revised Open Public Meetings Act notice that was sent to two newspapers (The Asbury Park Press and Star Ledger) for publication, posted on the Borough website, posted on the front and rear entrance of Borough Hall and sent to the Borough Clerk advising that the Zoning Board meetings would now be broadcast virtually. This information is on the Borough website with instructions on how to gain access to the meeting.

Mr. Lehder noted for the record that all materials for applications were collected electronically prior to the hearing in preparation for their Zoom presentations. The applicants were also provided instructional Zoom training sessions by Borough staff, if requested.

#### **2. OLD BUSINESS**

**Fair Haven Retail, LLC – 588 River Road, Block 32, Lot 02, B-1 Zone** – Appeal of Zoning Official's determination for Over Easy Restaurant.

Mr. Irene stated that the applicant's appeal testimony concluded at last month's meeting but requested to carry the matter to the July meeting. A letter was received from the applicant's council, Michael Bruno, Esq., dated June 17, 2020 indicating that as of the result of the Planning Board's site plan approval the applicant is withdrawing their appeal application.

MOTION by Mr. Neczesny, second Mr. Kinsella, to dismiss the matter of Fair Haven Retail, LLC, 588 River Road appeal.

In Favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, and Lehder

Opposed: None

#### **3. NEW BUSINESS**

**Slaven – 94 Jackson Street, Block 38, Lot 12, R-5 Zone** – Application for a single-family addition.

Mr. Rick Brodsky, Esq., and Mr. Brian Slaven were promoted to panelists as well as their professionals Mr. Keith Mazurek, architect and Ms. Allison Coffin professional planner.

Mr. Irene confirmed the notice material for the Slaven application appeared to be in order and asked if there were any interested parties that had any questions or issues regarding the notice material. There were no comments on the notice material.

Ms. Gable, Board Planner was sworn.

Mr. Brodsky began with stating that the subject property is a single-family residence located in the R-5 zone. The property owners are seeking to do interior and exterior renovations. They are proposing to add two addition sections to the existing second floor. There is no change proposed to the existing footprint of the structure. One proposed addition is approximately 131 square feet and the second addition is approximately 120 square feet. There are currently four bedrooms, but one of the rooms is a small 6 x 8-foot size room, more of a study. The applicant would also like to add a master bathroom onto the master bedroom. A variance is needed for maximum floor area where 2,200 square feet is permitted in the R-5 zone, the applicant is proposing 2,356 square feet. While the proposal exceeds the maximum floor, area permitted in the zone, in terms of the floor area ratio; the proposal is below the permitted 0.4. After the addition, the floor area ratio would be at 0.31. The applicant is also below the allowable building coverage at 17.2% where 35% is permitted. They are also below the permitted lot coverage at 31.1% where 50% is permitted. The subject property is an oversized lot for the zone at about 7,564 square feet where 5,000 square feet is required. There is an existing nonconformity for the side yard setback at 4.7 feet. With respect to the proposed second floor additions they do not come out to the 4.7-foot setback but are proposed to comply with the 7-foot side yard setback requirement. There is also a shed on the property that was there when the applicants purchased the property that does not comply with setbacks. The applicant does not have an issue with relocating or removing the shed to comply with the required setbacks.

Mr. Lehder noted that the Zoning Official's denial letter dated 08-13-2019 stated that the proposed additions would still be in the side yard setback at 6.2 feet where 7 feet is required. He wanted to clarify that there are only two variances being requested by the applicant, one for the combined side yard setback and one for habitable floor area.

Mr. Brodsky stated that the plans were revised after the denial letter was issued in order to conform with the 7-foot side yard setback requirement. He also confirmed that the applicant is only seeking variance relief for the combined side yard setback and one for habitable floor area.

Mr. Keith Mazurek, 43 West Front Street, Red Bank, was sworn, noted his appearance on behalf of the Slaven application and presented his professional credentials to the Board. The Board excepted his credentials with no objections.

**Exhibit A-1** – Architectural floor and elevation plans, prepared by Keith Mazurek A.I.A. Architect, signed and sealed by Keith Mazurek A.I.A., dated 02-15-2020 with a revision dates of 03-18-2020 and 03-23-2020, consisting of one (1) sheet.

**Exhibit A-2** – Property Survey, prepared by Morgan Engineering, signed by David J. Von Steenburg, dated 05-04-19, one sheet.

**Exhibit A-3** – Photo labeled 'Photo # 9 – Front View (Subject Premises on Right)' taken by Brian Slaven in June 2019.

Mr. Mazurek stated the subject property is a single-family dwelling with two bedrooms and a full bath on the first floor; and two bedrooms with a full bath on the second floor. The applicant is looking to improve curb appeal to fit into the neighborhood. The master bedroom is lacking a master bathroom and they would like to add one. The new addition bedroom on the second floor is proposed at 10 x 10 feet. The combined side yard setback is a 16-foot requirement and they are proposing 15.6 feet. They removed the need for the single side yard setback variance by bringing the proposed addition to the 7-foot requirement. He discussed with the applicant installing a new roof, updating the windows, adding Hardie board siding and cultured stone on the foundation of the house to bring back a country feel that was lost with the additions made by the previous owners. A portico roof will be added to the front porch to add coverage and that will be within all setbacks and conforming.

Mr. Ryan asked if the chimney will be in the same location as it is today because it is not indicated on the proposed plans, Exhibit A-1.

Mr. Mazurek stated that he believed the chimney would remain.

Mr. Ryan asked Mr. Mazurek to clarify if the proposed portico roof would encroach into the front yard setback as the existing steps are in the front yard setback at 23 feet where 25 feet is required.

Mr. Mazurek stated that the proposed roof will stop at the upper landing and will not encroach into the 25-foot front yard setback and will therefore be conforming.

Ms. Gable asked if the building façade transparency calculations will be met in accordance with the Borough Code.

Mr. Mazurek confirmed that they will comply.

Ms. Allison Coffin, Professional Planner with James W. Higgins Associates, 14 Tilton Drive, Ocean Township was sworn and presented her professional credentials to the Board. The Board excepted her credentials with no objections.

Ms. Coffin stated that she reviewed the application and plans, completed a sight visit of the subject property and neighbor, reviewed the 2016 Master Plan reexamination report, and the professional Planner's review letter. The subject property is a 7,564 square foot lot with a single-family home. The applicant is looking to expand the home with two second floor additions. The additional square footage being added is 244 square feet. The lot is oversized for the R-5 Zone where 5,000 square feet is required. Although the existing side yard setback is nonconforming, the new proposed addition will only require variance relief for the total combined side yard setback. The other variance is for maximum habitable floor area where 2,200 square feet is permitted, the applicant is proposing 2,356 square feet. Ms. Coffin reviewed the types of 'C' variances the applicant is requesting in relation to the MLUL. The variances requested are 'C' variances which have two tests in the MLUL. She believes that both variances are de minimis and it is hardship that drives them, the benefits outweigh the detriments. She doesn't believe either variance will cause detriments to the neighborhood due to the oversized lot of the subject property. The use of the property is permitted, and the proposed habitable floor area is appropriate for the size of the lot. For those reasons, it is in her opinion that the positive reasons exist for the granting of the variances without the detriment to the health, safety and general welfare of the public. The variances would only improve the neighborhood.

Mr. Brian Slaven, 94 Jackson Street, Fair Haven was sworn. Mr. Slaven confirmed that photo #9 in Exhibit A-3 was taken in June of 2019 and depicts what the house looks like today. He stated that he was not sure what they plan to do with the chimney at this point in time. There will be an additional HVAC unit added and if the chimney will not be needed, he will look to have it removed if possible.

Mr. Irene asked if the survey marked Exhibit A-2 accurately depicts the current conditions of the subject property.

Mr. Slaven stated it was the survey that was provided when he purchased the house and yes it does depict current conditions and nothing additional has been added to the property.

Mr. Lehder asked the applicant if he would be willing to move the nonconforming shed into conformity.

Mr. Slaven stated that he will have the shed relocated to a conforming location.

Mr. Lehder asked to clarify if the chimney will be removed or not.

Mr. Mazurek stated that he would have no issue with leaving the chimney.

Mr. Brodsky stated that the chimney would remain.

Mr. Brodsky closed stating that the application before the board will be an improvement to the existing home. The lot is oversized for the Zone and will adequately handle the modest proposed improvements. He asked that the Board please vote in favor of the application.

Mr. Irene wanted to note that along with the notice to access tonight's meeting via the web, the Borough also provided information for anyone who did not have web access. They could call in with either a landline or a cell phone. Contact phone numbers and emails were also provided so if any interested parties were having difficulty or needed assistance beyond the instructions that were provided, they could call or email the Board Secretary and be provided assistance. Mr. Irene asked the Board Secretary if anyone called or emailed indicating that they had any problems accessing tonight's meeting.

The Board Secretary stated that she did not received any calls or emails requesting any additional assistance or that anyone had any problems accessing tonight's meeting via Zoom.

Mr. Neczesny agrees with Mr. Brodsky in that the proposed improvements will have a minimal impact on the neighbors and will improve the look of the house.

Dr. Laufer believes the improvements will improve the home and neighborhood.

Mrs. Neff agrees with Dr. Laufer that improvements will enhance the street. The additional space is minimal, and the vertical exacerbatation is away from the closest neighbor.

Mr. Ludman likes that the applicant will remove an existing nonconformity by removing or relocating the shed.

Mr. Lehder agrees with the applicants Planner regarding the C1 hardship. He sees this as a very traditional hardship, he believes that the Master Plan encourages the Board to adapt the existing structures where possible such as with this application. Adding a small addition to the second floor will improve the house and make it more functional.

MOTION by Mr. Neczesny, second Mr. Lehder, to approve the application as submitted with the condition to relocate the nonconforming shed to a conforming location. The applicant will add Hardie Board siding, cultured stone across the visible portion of the foundation, replace the roof, and new windows will be installed in the front of the house and on the additions.

In Favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, and Lehder

Opposed: None

**Coppola – 111 Harrison Avenue, Block 03, Lot 17, R-5 Zone** – Application to enclose open porch at the rear of the house. Variances needed for habitable floor area, combined side yard setback, driveway and parking.

Mr. Joe Coppola and Mr. Al Shissias, architect, were promoted to panelists.

Mr. Irene confirmed the notice material for the Coppola application appeared to be in order and asked if there were any interested parties that had any questions or issues regarding the notice material. There were no comments on the notice material.

Ms. Gable, Board Planner was sworn.

Joe Coppola, 111 Harrison Avenue, Fair Haven was sworn.

Al Shissias, 27 First Street, Rumson was sworn and noted his appearance on behalf of the Coppola application, then presented his professional credentials to the Board. The Board excepted his credentials with no objections.

Mr. Coppola began his testimony stating that he is looking to make small adjustments to his living space to accommodate his elderly father and children. He is proposing to take an existing covered deck in the back of the home and enclose it. He will also add windows to the side of the house and a door at the rear. The house is a split-level home and enclosing the back covered deck with add additional living space on the first floor. He believes enclosing the space will also improve the aesthetics of the home from the outside. The house does not have a basement or a usable attic for storage. Enclosing the space will help with storage issues as well.

Mr. Lehder asked Mr. Coppola if the work done to the house in the past few years was done by him or the previous owner.

Mr. Coppola stated that work was completed by the previous owner.

Mr. Lehder asked if Mr. Coppola could explain the layout of the house as it currently exists.

Mr. Coppola stated the first floor consists of the laundry room, a small office, a powder room, a garage, storage room behind the garage and the outdoor covered deck. The second floor consists of two bedrooms, a bathroom, a master bedroom, master bath, family room and kitchen.

Mr. Lehder asked if there were any previous variances granted for the existing structure.

Ms. Gable stated that during her review she noted that no variances were granted for the rear additions made by the previous owner because the storage area was not included as habitable space as it was proposed as a workshop with no heat source. The other side of the rear addition did comply with the side yard setbacks because the rear of the house is farther away from the lot line than the front of the house which is an existing nonconforming condition. The rear addition does conform to the side yard setback at 7.2 feet and combined at 16.5 feet.

Mr. Shissias began by stating there are two preexisting nonconformities, one being the front yard coverage where the maximum allowed is 25% and 35% is existing, completed by the previous owner. The second nonconformity is parking where 3 parking spaces are required as the home is listed as a 4-bedroom house. The third space would fall into the front yard setback causing the

additional nonconformity, only two cars can fit behind the front yard setback. Both of these nonconformities were the result of the previous owner. The two new proposed variances are combined side yard setback where 16 feet is required, and 14.9 feet is proposed at the most restrictive point due to the front of the house being closer to the property line. The second variance request is the habitable floor area where 2,200 square feet is permitted, and 2,504 square feet is proposed. Mr. Shissias began to review the proposed plans for the Board.

**Exhibit A-1** – Architectural plans entitled, *Coppola Residence, Single Family Addition, 111 Harrison Ave., Fair Haven, NJ 07704, Block 3 / Lot 17*, prepared by Shissias Design + Development, signed and sealed by Al Shissias, dated 01-27-2020 with a revision date of 03-20-2020, consisting of two sheets, Z1 and Z2.

**Exhibit A-2** – Property Survey for the subject property prepared by Morgan Engineering & Surveying, signed and sealed by David J. Von Steenburg, dated 09-12-18.

Mr. Irene confirmed with Mr. Coppola that the Exhibit A-2 survey accurately depicts the current conditions of the property.

Mr. Shissias reviewed the first and second floor plan of the house. The proposed work is to enclose, insulate, heat and cool the covered deck that is on the back of the house. The deck is 22 feet deep and 15.10 feet wide. A bank of windows will be added to the side of the house and a four-panel sliding glass door at the rear with steps to outside, there is no proposed covering over the steps. He noted that the proposal is not increasing the volume or mass of the building within the setback, just enclosing what is existing. The lot is oversized for the zone at about 16,800 square feet where 5,000 square feet is required. Which is about 330% larger than the minimum for this zone and only about one third over the floor area ratio. With the hardship of not having a basement for extra storage and the lot being very oversized for the zone, he believes enclosing the covered porch is an appropriate request.

Mr. Neczesny noted that the first-floor bedroom is technically not a bedroom as it does not have a closet. He asked what the parking requirement would be for a three-bedroom house.

Mr. Shissias stated that the parking requirement for a three-bedroom house is two parking spaces and therefore the applicant would comply.

Ms. Gable referred to her planning review and asked if the siding for the proposed enclosure would match the current siding of the house.

Mr. Shissias stated they would match what is existing and there would also be white trim to make it look as though it was always there.

Ms. Quigley asked if the applicant was proposing a balcony anywhere on the new addition or anywhere else on the house.

Mr. Shissias stated no, there was no proposed balcony.

Dr. Laufer asked if the applicant was prepared to reside the entire side of the house where the proposed addition is located as to not have a chopped-up look with the new siding.

Mr. Coppola stated that he would ensure it would not look as if it were piece mailed together, he would make it look pleasing to the eye.

Mr. Lehder asked if Mr. Coppola thought about heating and cooling the existing storage area.

Mr. Coppola stated that he needed that area for storage and to finish that space would still require new windows and siding, but it would not work with the flow of the first-floor layout. He stated he had nothing further as far as testimony.

No comments or questions from the public.

Ms. Quigley believes that it is important to note that a lack of a basement does not constitute a hardship. To her however, the narrowness of the property along with the depth does create a hardship in terms of where you can try to add extra room to the home. She thinks the enclosure of the already existing space is a reasonable request from the applicant to try to create extra space in a split-level home.

Mr. Neczesny thinks that it makes sense to enclose the porch. The previous owner didn't want to go through the variance process and left it to the new owner of the property. He does not think there would be a big impact to the neighbors as the space is already there. Given the dept of the lot and the location of the porch, enclosing it would not negatively impact but improve the space. He questioned the parking variance, asking if it is required as there appears to only be three bedrooms.

Mr. Lehder stated the applicant did not need the parking variance as the house only has three bedrooms so there is only a need for two parking spaces which the property has.

Mrs. Neff believes that you have to look at a possible future homeowner who may add an additional door to the storage space and add heat and cooling and turn that space habitable. She believes the Board should consider that as a possibility. She also believes that the length and overall size of the property does mitigate some issues with the proposal.

Mr. Ryan believes that the proposal of enclosing the porch will improve the overall look of the house.

Mr. Kinsella agrees with Mr. Ryan with regard of the look of the porch. It already looks like a room, walls just need to be added. The proposed use of the space make sense to him.

Mr. Ludman agrees that there is no need for a parking variance. He doesn't look at what's proposed as being a significant modification as the space and footprint are already there. He does however have an issue with the overall habitable floor space. But it doesn't appear to be inconsistent with the surrounding neighborhood and therefore believes it will be an improvement to the house.

Dr. Laufer stated that the footprint is already there and believes that allowing the applicant to enclose will only be a benefit. The function of the new space will only improve the home. He does not think it is reasonable to speculate on what a future owner might do to the house as far as the current storage area.

Mr. Ridgeway agrees with the comments regarding the aesthetics of the proposal, he thinks it will improve the look of the house. He is also not concerned with future owners and what work they may do.

MOTION by Mr. Neczesny, second Ms. Quigley, to approve the application as submitted with the condition that the siding of the enclosed porch match the rest of the house or be complementary and the storage room will not be used as habitable space.

In Favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer

Opposed: Lehder

#### **4. ADMINISTRATIVE ITEMS**

MOTION by Mr. Neczesny, second Dr. Laufer, to approve the DelTin – 4 Hendrickson Place, Block 46, Lot 14, R-10 Zone Resolution as written.

In Favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, and Lehder

Opposed: None

MOTION by Mr. Neczesny, second Ms. Quigley, to approve the minutes of the June 4, 2020 meeting.

In Favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, and Lehder

Opposed: None

#### **5. PUBLIC COMMENT**

Susan O'Brien – 875 River Road, Fair Haven stated that she would like the Zoom meetings to continue instead of in person meetings for the health and safety of the public due to the pandemic.

No further comments or questions from the public.

MOTION to adjourn unanimously by voice vote.

Meeting adjourned at 10:09 PM.

Respectfully submitted,

Jennifer Johnson, 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.