

## FAIR HAVEN ZONING BOARD OF ADJUSTMENT

### Regular Meeting Minutes March 1, 2018

The meeting was called to order at 7:20 by the Chair with a reading of the Open Public Meetings Act Statement (attached), followed by the pledge to the flag. Two new members of the Board were sworn in.

#### 1. ROLL CALL

Present: Mr. McGurl, Mr. Ridgeway, Mr. Ryan, Mr. Schiavetti, Mrs. Quigley, Mr. Lanni, Mrs. Ylagan, Mr. Lehder

Absent: Mr. Neczesny

Also Present: Mr. Irene, Board Attorney, Mr. Heyer, Board Planner, Mr. Kennedy, Board Engineer

MOTION Ridgeway, second McGurl to appoint Mr. Schiavetti Acting Chair.

In Favor: McGurl, Ridgeway, Quigley, Ryan, Lanni, Ylagan

Opposed: None

Abstain: Schiavetti

MOTION McGurl, second Ridgeway, to carry the Kolarsick application to the April meeting without necessity to renote.

In Favor: McGurl, Ridgeway, Schiavetti, Quigley, Ryan, Lanni, Lehder

Opposed: None

Mr. Lehder left the dais at 7:25 PM.

#### 2. NEW BUSINESS

**Petcon Builders - 882 River Rd, Block 62, Lot 30, R-10A zone – Application for new construction** – variances needed for habitable floor area, front yard setback, driveway width Scott Eskwitt noted his appearance on behalf of the applicant. Mr. Heyer and Mr. Kennedy were sworn. It was agreed that since no testimony was provided at the February meeting the Board was proceeding as if this was the first hearing.

John Tsakiris, 45 Kemp Ave, was sworn and gave a history of the property. He stated the property has been abandoned for 10 years and there is a problem with severe erosion. The DEP issues have been resolved. The flood plain is located on the neighbor's property. He stated this was a well thought out application. The project will be an asset to the community. Mrs. Quigley asked about the stream. She was told that it was considered a C1 estuary, which is why it is under the jurisdiction of the DEP. The original application showed a retaining wall on the flood plain. The plans have been changed.

Lee Ricker, 25 Doughty Lane, was sworn and asked Mr. Tsakiris if the water catchments were still on the plan. The response was yes.

Mr. Eskwitt requested that the Board deal with the variances before the technical data. Anthony Condouris, 20 Bingham Ave, Rumson, was sworn and his credentials as a licensed architect were accepted by the Board. He described the lot as unique, with a view of the river in front. The applicant was attempting to maximize the view by opening up the front of the house. He had to account for the bluff on the east side which creates a variance on the Doughty Ave. side. The variances requested are for minimum front yard setback of 20', HFA of 3,446 sq. ft., minimum lot frontage 110, existing, minimum lot width 111', front yard covered by driveway 25%. In response to a question from Mrs. Quigley, Mr. Heyer stated that the applicant doesn't get the benefit of two front yards as far as the 25% is concerned.

Ex. A-1 – Plans prepared by Anthony Condouris consisting of 4 pages, with a revision date of 2/13/18. Mr. Condouris stated that the house was designed with R-15 standards, based on the size of the lot. Mr. Ryan questioned whether the HFA could have been reduced, or the house reconfigured. Mr. Condouris stated the plan allows for wider hallways and better bathrooms. Mr. Kennedy asked if there was egress from the 5<sup>th</sup> bedroom, located in the basement and was told that there was. Mr. Ridgeway asked about access to the attic and was told access was via pull down stairs. The windows are decorative and the applicant would agree to restrictions. Mr. Schiavetti questions the setback. The response was that they wanted to keep the house as wide as possible to maximize the view. Mr. Heyer said the sideyard was understandable but they haven't addressed the size of the house. Mr. Ridgeway questioned why, as new construction, the HFA couldn't be reduced? Mr. Condouris indicated that would be possible but not what was being proposed. Mrs. Ylagan asked by the water level hadn't been check yet and expressed concern about the height of the basement. Mr. Schiavetti noted that the plans appeared to show a storage area in the detached garage. Mr. Condouris stated that after the plans were made the doors were switched to the long side, facing the house and there was leftover width. Mr. Ryan asked if the house could have been deeper and Mr. Condouris stated they wanted to maximize the width.

There were no questions from the public.

David Cranmer, 750 Broad St, Shrewsbury, was sworn. He credentials as a licensed architect and licensed planner were accepted by the Board. The following were put into evidence:

Ex. A-2 – Plot plan prepared by Mr. Cranmer with a revision date of 2/16/18.

Ex. A-3 – color enhanced version of sheet 2 of A-2.

Ex. A-4 – Survey prepared by Charles E. Bell, dated 8/14/17, taken from prior set of plans

Mr. Cranmer said the lot is uniquely situated in a confluence of zones. The topography drives many of the variances; there is a steep, 14' drop with erosion on this property as well as that of the neighbor. Referring to A-4, he stated that the demo was larger than the proposed house. The structure was uninhabitable and unsafe. The proposed house was designed to provide amenities consistent with those in the area. On the easterly side of the property is a tributary to the Navesink. The property lies in the riparian zone which calls for a 300' buffer and therefore it is governed by flood hazard regulations. Questions were raised as to whether or not a retaining wall would be allowed. They met with DEP and the proposed location of the house and the

impervious coverage meet with DEP specifications. Permits by Rule are proposed for the pool and the driveway.

Three variances are requested and there are 2 existing conditions that are unchanged. Referencing the review by Heyer Gruel, Mr. Cranmer stated that Doughty Lane is being treated as a public right of way; 30' are required on Doughty and 20' is being proposed, due to the unique topography, with the steep slope. He cited the C1 hardship proof, stating they pulled the house as far from the slope leaving room for some yard. He stated that most existing houses are close to Doughty Lane. In providing this information he stated the applicant measured from the curb line to the house.

Ex. A-5 – photo of the corner of Doughty & River, (B 54, L4)- 11'4" to curb.

Ex. A-6 – photo of B54, L5, directly across the street, measuring 15'6" to house.

Both photos were taken by Mr. Tsakiris in Nov, 2017 and depict the site as it exists today.

It was said that the proposed house was not out of scale and was noted that the pool complies with the 30' setback.

Mr. McGurl questioned whether the house could be turned to conform to the setbacks, maintaining the planned size. Mr. Cranmer responded that they wanted to provide a buffer for privacy and parking. Mr. Kennedy stated that Mr. Cranmer's plans with the turn around on site make sense because backing onto Doughty Lane would not be safe.

Ex. A-7 – architectural rendering was introduced.

Mr. Cranmer said the retaining structure, geogrid tie-backs would be underground. If the house was moved closer to the embankment there would be more load on the wall and less functionality.

Mrs. Quigley expressed concern about erosion and thought there was a need for more information. There followed a discussion regarding the grading. The stratosystem will look as it looks now, no wall will be seen. The soil sampling has been done. Placement was determined by the flood hazard area and the tree line. They do not believe the wall will impact the roots or trees. They can not remove the trees. Mr. Kennedy stated that he didn't know the thickness of the structure. If the house had to move, they would have to come back.

Referring to Mr. Kennedy's report, Mr. Cranmer stated there was no need for stormwater retention, per ordinance. Roof run-off will travel over a swale. Concern was expressed about the steep slopes and the applicant stated he was ok with drywalls.

The AC units have to be moved and won't create a variance. Mr. Cranmer said he had no problem complying with Mr. Kennedy's recommendations regarding fencing. The pool fence won't go beyond 20' on Doughty. The site triangle will not go above 3' and will likely be an improvement.

The 12' driveway parallels Doughty. There is more space to park on site or turn around, 25% of the 20' setback not counting the side yard. There is more parking ability, a safety advantage and

functionality, with access to the rear door. Elimination of the curb cut on River Road is a positive.

Ex. A-8 – Photo of circular driveway across the street, on B54, L5. Mr. McGurl asked if the driveway could be configured so that cars don't shine into the house next door. Mr. Kennedy said the driveway could be made 20' shorter and the applicant agreed. A variance would still be needed.

There are two existing nonconformities. The proposed HFA is 3,450 sq. ft. and Mr. Cranmer stated that the previous home might have been larger, based on the footprint. Ex. A- 8 – 2015 Aerial view of the property in the HGA report with footprint superimposed over surrounding homes. It was stated that the proposed home would not stand out in the neighborhood and is in keeping with the R-10 zone. It was noted that the house is located at the intersection of 4 zones. Mr. Cranmer stated he did not see a negative impact and there was a positive in that there would be more functionality.

#### Comments from the public

Susan O'Brien, River Rd, was sworn. She noted the height of the house would depend on the ground water level. She was told the house would meet the height requirement.

Mark Rothenberg, 19 Doughty Lane, was sworn. He asked who would guarantee a solution if the drainage system didn't work. He asked what trees were being removed and was told that no trees in the flood area will be removed. Trees outside the flood area will be removed. The builder is responsible for repairing damage from opening the road and the applicant consents to a road opening bond.

Mr. Lehder interrupted the hearing to address Mr. and Mrs. Leone who were waiting for their application to be heard. He explained that there would not be time to hear the application tonight. They agreed to have the application carried to the April meeting with no need to renotice, and granted an extension of time.

MOTION McGurl, second Quigley to carry the application to the April meeting without notice.

In Favor: McGurl, Ridgeway, Schiavetti, Quigley, Ryan, Lanni, Ylagan

Opposed: None

Mr. Condouris was recalled. Mr. O'Brien asked him why it couldn't conform. He said he could. She stated the older house was smaller. She questioned why more dirt was trucked on to the site and Mr. Tsakiris stated it was for stabilization.

Elizabeth Koch, 27 Sycamore addressed the driveway on to Doughty. She noted she was a member of Council. She said at the time of demolition trucks couldn't make the turn. She was also concerned about damage to newly paved road.

George John Tsakiris, 640 Prospect Ave, Little Silver, was sworn. He stated they are looking to have suppliers use smaller trucks or to use a fork lift with trucks parked further down. He stated he would be on site supervising.

Lee Ricker stated he was glad the driveway length was adjusted.

Susan O'Brien said morning and afternoon construction with kids going to and from school was a concern.

There were no further comments from the public.

In closing, Mr. Eskwitt stated that the criteria were addressed and Mr. Kennedy's concerns were addressed. He again explained why the house is located where it is on the property.

Mr. McGurl stated the house should have been built to conform. They are staying in the box but there is too much inside of the box.

Mr. Ryan would have liked to see more effort to keep within the setbacks.

Mrs. Quigley said the old house was compromised and hardship justifies encroachment.

Mr. McGurl said the variances were self imposed.

Mrs. Ylagan had questions about the wall.

Mr. Ridgeway said the applicant does great work in the community but since this was a demo, why couldn't there be a clean slate.

The Board recessed at 10:55 while the applicants left to confer. They returned at 11:00 PM. Roll call indicated the Board members previously on the dais all returned to the dais.

Mr. Eskwitt requested to reopen the hearing to modify the application, then withdrew the request.

MOTION by Quigley to approve the application failed for lack of a second.

MOTION by McGurl, second Ryan, to deny the application as presented.

In Favor: McGurl, Ridgeway, Schiavetti, Ryan, Lanni

Opposed: Quigley, Ylagan

Mr. Lehder returned to the dais at 11:10

## **5. ADMINISTRATIVE ITEMS**

The annual report will be discussed at the April meeting.

MOTION Quigley, second Schiavetti, to approve the 1 Hendrickson resolution

In Favor: Schiavetti, Quigley

Opposed: none

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

In Favor: Ridgeway, Schiavetti, Quigley, Ryan

Opposed: None

Abstained: Lehder

MOTION to adjourn passed by acclamation.

Meeting adjourned at 11:15 PM.

Respectfully submitted,

Judy Fuller

### 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.**