

FAIR HAVEN ZONING BOARD OF ADJUSTMENT

Regular Meeting Minutes - November 12th, 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. Elena Gabel, Board Planner; Mr. James Kennedy PE, PP, Board Engineer.

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 entrances of Borough Hall and sent to the Borough Clerk advising that the Zoning Board meetings would now be broadcast virtually due to the Covid-19 pandemic. This information is on the Borough website with instructions on how to gain access to the meeting. Mr. Irene confirmed with the Board Secretary that there were no members of the public that contacted the Borough with any issues connecting 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 materials have been posted on the Borough website for any interested parties to view. The applicants were also provided instructional Zoom training sessions by Borough staff, if requested.

2. NEW BUSINESS

Anderson – 81 Riverlawn Drive, Block 26, Lot 07, R-30 Zone – Application for an addition to the existing dwelling.

Mr. Irene stated that an email was received today from the applicant's council, Mr. Aikins, requesting that the matter be carried to the December 3rd, 2020 meeting due to some inconsistencies on the property survey and plans submitted. The applicant will re-notice for the December meeting.

MOTION by Mr. Lehder, second Ms. Quigley, to carry the Anderson application to the December 3rd, 2020 meeting subject to a stipulation from Mr. Atkins confirming an extension of time in which the Board has to act.

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

Opposed: None

No comments, questions or concerns from the Public on the Anderson application.

Gaiero – 8 Hendrickson Place, Block 46, Lot 12, R-10 Zone – Application for a renovation of the existing half story cape cod into a two-story colonial style house.

Mr. Irene stated that the applicant sent an email to the Board Secretary requested the matter be carried to the December 3rd, 2020 meeting. Mr. Irene checked the applicant's notice material and they seemed to be in order so if the Board approves the request to carry it could be without the necessity of re-noticing and the applicant also provided a stipulation granting an extension of time in which the Board has to act.

MOTION by Mr. Lehder, second Mr. Neczesny, to carry the application to the December 3rd, 2020 meeting without the necessity of re-notice and subject to the stipulation from Mr. Gaiero confirming an extension of time in which the Board has to act.

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

Opposed: None

No comments, questions or concerns from the Public on the Gaiero application.

Bruiser Woods, LLC / Kick Dance Studio – 611 River Road, Block 25, Lot 12, B-1 Zone – Application for second floor addition to a single-story commercial structure.

Mr. Ludman recused himself from the matter and was removed from the dais as a panelist and made an attendee on the Zoom platform.

Mr. Irene confirmed that the notice material for the Bruiser Woods, LLC application have been reviewed and appeared to be in order.

No questions or concerns from the Public regarding the notice materials for Bruiser Woods, LLC.

Ms. Gable and Mr. Kennedy were both sworn.

Mr. Rick Brodsky, Esq. appeared on behalf of the applicant, Bruiser Woods, LLC. Mr. Jason Fichter, Mr. Anthony Condouris and Ms. Vanessa Berry were also brought over as panelists on the Zoom platform.

Mr. Irene stated for the Board that this application is a single-story commercial building with an existing, permitted Use of a dance studio. The applicant is proposing a second story addition, renovations and related site improvements. The proposed area of improvements will exceed the permitted Floor Area Ratio which is a D4 Variance. There are also related bulk variances and site plan approval requested.

Ms. Gable reviewed the waivers requested by the applicant all of which were granted by the Board Planner and stated in her review letter.

Mr. Irene stated that the waivers were granted by the Planner for completeness purposes but are ultimately up to the Board to grant final waivers for them. The applicant would have to provide the materials if requested to do so by the Board.

MOTION by Mr. Lehder, second Mr. Neczesny, to grant the requested completeness waivers.

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

Opposed: None

Mr. Brodsky began by stating that the applicant is seeking site plan approval and a second story addition onto the existing commercial building. The current Use of the property is a Dance Studio, which is a permitted Use in the B-1 Zone. The applicant is proposing to continue with the current Use of the site. The existing building has been operating as a dance studio for six years and the second story addition is proposed to add two additional dance studio rooms and a storage room. The Use of a dance studio for children requires a good amount of space for classes. He noted that none of the clients drive as they are children, so it is primarily a drop-off and pickup operation. In addition to the second story there are additional improvements to the parking lot, driveway, landscaping, and lighting. The applicant has been teaching dance for 21 years and has ample experience in running a dance studio. She intends to make this site the permanent space for Kick Dance Studio.

Ms. Vanessa Berry, 35 Rumson Road, was sworn and began her testimony by stating that she is the principal and sole owner of Bruiser Woods, LLC and owner of the subject property. She has owned Kick Dance Studio for 20 years. The business started at 740 River Road and then she opened a second location in Rumson. Six years ago, she moved from 740 River Road to 611 River Road and she would like to have the space be usable by not only their younger dancers but also their older dancers, 12 to 16 years old, which require more room to train. Currently there are two rooms at the 611 River Road location, and they are used primarily by younger children due to the size of the rooms. The older dancers are currently training at the Rumson location, but this location must be vacated to make room for affordable housing in Rumson. Adding a second floor to the 611 River Road location would provide additional space for the dancers that will no longer have the Rumson location to train. The proposed changes would eliminate the lobby so it will be a complete drop-off facility. Hours of operation are mainly between 3pm and 7pm. There will be one teacher for each room and there are four rooms proposed. The classes will not run at the same time, they try to stagger the classes to help with drop-off and pickup. In terms of the 13 parking spaces that are proposed she believes they will be more than sufficient to handle all classes, because it is all drop-off. All classes are preregistered, and students are signed up ahead of time, there are no walk-ins.

Mr. Neczesny asked if she was proposing a door in the rear of the building for drop-off.

Ms. Berry is proposing the main entrance to be in the rear of the building so the children do not have to walk from the rear parking lot to the front of the building. The front door would be only for students that walk to class.

Ms. Quigley asked if there has been any issue with the narrowness of the driveway entrance off of River Road.

Ms. Berry stated that in the six years they have been at the 611 River Road location, they have never had an issue with the driveway or parking.

Dr. Laufer asked if she was eliminating the East entrance door which is adjacent to the driveway off of River Road and if it is ever used as an entrance or exit.

Ms. Berry stated it is only an emergency exit and not used at all. She would like to keep it for emergency purposes but would ensure there was no handle on the outside of the door.

Mr. Anthony Condouris, 20 Bingham Avenue, Rumson was sworn. He provided his credentials and was excepted by the Board. He stated that the East entrance is not a required emergency exit, but it would not hurt to have it there and he is in favor of keeping the door.

Mr. Kennedy asked when the last class of the day will be and when the last person of her staff would be in the building.

Ms. Berry stated that 9pm would be the latest a person would be in the building.

Mr. Jason Fichter, 1955 Route 34, Wall, NJ of InSite Engineering was sworn and gave his credentials as an Engineer and Planner. The Board accepted his qualifications.

Exhibit A-1 – Boundary and Topographic Survey prepared by InSite Engineering, dated 02-20-2020.

Exhibit A-2 – Preliminary and Final Site Plan prepared by InSite Engineering, dated 03-06-2020 with revisions through 10-30-2020.

Exhibit A-3 – Floor Plans and elevations prepared by Anthony Condouris Architect dated 01-22-2020 with revisions through 10-29-2020.

Exhibit A-4 – Application submitted by the applicant, dated 03-13-2020.

Exhibit A-5 – Color enhanced version of Sheet C-300 of the Site Plan dated 11-12-2020.

Mr. Fichter began with the engineering testimony by stating that the subject property is 9,315.42 square feet where 5,000 square feet is required for the Zone. The subject property is located in the middle to the B-1 zone with other businesses in the same area. The applicant, Kick Dance Studio, is requesting a second story to accommodate the studio needs. They have been operating at this location for about six years and at a prior location also in Fair Haven for about 15 years. Because they have to vacate their Rumson studio, the applicant's goal is to consolidate into one location and therefore a second story is necessary at the 611 River Road location. The driveway runs along the East side of the site. The building and most of the parking is on the West side of the site. There are 15 parking spaces existing in the rear of the building. The footprint of the building is not proposed to change except for a small addition for fire stairs, which is only about 132 square feet for safety. The proposed habitable floor area is 4,052 square feet with the addition of the second story. They are proposing 13 parking spaces, standard 90-degree spaces with a standard 25-foot drive aisle which will then accommodate two-way travel in and out of the rear of the property off of Navesink Avenue. They are proposing to remove some of the pavement on the West side of the site, which will allow for landscaping to be added. They are proposing to remove the trees on the West side of the property line which are overgrown and replace them with evergreen trees which will provide screening along that side of the property. There is a dedicated refuse area behind the building and the proposed evergreens will screen the area. There is an existing sign which the applicant would like to use on the proposed awning in the front of the building. This would trigger a variance as the Borough Ordinance limits awning signs to ten square feet. In regard to lighting, they are proposing building mounted lighting. These lights cover the driveway from River Road and about half of the rear parking lot. The did not propose any pole mounted lighting at the back of the property as the neighbor to the West has two pole mounted lights along the side of the property that provides adequate lighting throughout the parking lot. He believes the site proposal is an improvement to what currently exists.

Mr. Lehder asked if there was an arrangement with the neighboring property with regard to the lighting in the parking lot.

Mr. Fichter stated that there is no arrangement at this time.

Mr. Kennedy stated that one of his main safety concerns with this application was relying on another property to provide the required lighting for the parking lot.

Mr. Fichter stated that due to the narrowness of the property, adding a new light pole may add lighting spillage onto the neighbor's property but that neighbor is a commercial lot so it would be considered 'free light' and not a negative. If the Board would like to see additional lighting with an additional pole, they could look into adding one to the site plan or come up with an agreement with the neighbor.

Mr. Ryan asked if Mr. Fichter could explain the drainage in the parking lot.

Mr. Fichter stated that the lot is flat and the water mainly drains to North and South to Navesink Avenue and River Road.

Dr. Laufer asked if the applicant considered making the lot a one-way where everyone one would enter in at River Road and exit at Navesink Avenue.

Mr. Fichter stated that the proposed two-way lot would take the traffic pressure off of River Road and he believes it is a better design then having it set up as a one-way.

Mr. Kennedy offered his view by stating that the existing layout is nonconforming for a number of reasons and he is happy that what is proposed is a conforming layout, which provides a safer parking lot. He also stated that ever since the Borough repaved Navesink Avenue, it is utilized more and provides relief to the River Road entrance. The wide traffic aisle provides additional room for emergency vehicles. He believes that the proposed changes to the property are reasonable and provide a fair balance based on the width available. One suggestion he did provide was to move some of the mass off of River Road by adding a cantilever in the rear creating a natural overhang off of the second floor over the new main entrance at the rear of the building.

Mr. Lehder asked if the drainage or stormwater was considered to be put underground instead of having the roof leaders drain to the narrow section of the driveway off of River Road. Both Mr. Kennedy and Mr. Fichter agreed that based on the location and narrowness of the lot adding a drywell would be too close to the neighboring lot. Normally a drywell would require a 10-foot setback and there just isn't enough room to allow for that space. Also the impervious coverage on the site is being reduced with the proposed changes and therefore reducing the runoff coming off of the site.

Mr. Condouris began reviewing the proposed architectural plans for the site, Exhibit A-3. The first floor of the building consists of two studios and two bathrooms. They are proposing to add a second story directly over the existing first floor, doubling the space. They are making some modifications to the first floor moving the main entrance to the rear of the building and adding a stairwell to the second floor. There are two additional studio rooms proposed for the second floor, one larger studio in the front of the building and a smaller studio in the rear as well as a storage room. The exterior front elevation has the sign mounted to the awning that already exists. The size of the sign is approximately 2 feet by 10 feet or 20 square feet. There is a variance required for the sign because you are limited to 10 square feet for signage on an awning. The existing height of the structure is approximately 15 feet tall, the proposed height is 30 feet up to the parapet. They are proposing windows on the East side of the building. On the West side of

the building they are proposing shutters that would appear as windows. They plan to maintain the stucco look of the outside of the building.

Dr. Laufer asked if they considered pushing the mass of the proposed second story back away from River Road and the sidewalk.

Mr. Condouris said it was part of their discussions but the impact it had on the studio space upstairs was not feasible for what is needed.

Mr. Neczesny asked if the Board should consider that the subject property is in the Fair Share Housing Overlay zone and other buildings could very well be developed with second stories.

Mr. Lehder stated that there is a 15-foot setback from River Road for any Affordable Housing that could be developed in that area. Any second or third floor has a setback that is 12 feet further back from the 15-foot setback of the first floor. This is his main concern with this application, the inconsistency of the second floor with what has been approved elsewhere for Affordable Housing.

Mr. Neczesny agreed with Mr. Lehder and is concerned that this proposal would not line up with other future development.

Mr. Condouris stated the intent for the second floor is to build upon the existing framing. They did review a design where the second story was pushed back from River Road but the stairwell up to the second floor would then be blocking the corner of the proposed rear studio making the space unusable as a dance studio.

Mr. Lehder asked if the stairwell could be built from North to South.

Mr. Condouris stated that the stairwell would then encroach on the parking lot and they may lose a parking space, but could be done.

Mr. Neczesny stated that it would also provide an overhang in the rear to cover the new main entrance of the studio.

Mr. Brodsky asked if the cost of a cantilever would be a significant.

Mr. Condouris stated a cantilever that is more than 3 or 4 feet can be a significant cost increase.

Mrs. Neff stated the design of the front of the building looks a little boxy and would like to see the second floor pushed back a little to decrease the look of the mass of the building. She believes losing a parking spot would ultimately benefit the property by pushing the second story back. She would rather focus more on the front of the building rather than the rear.

Mr. Kennedy asked Mr. Condouris if the mechanicals of the building would be placed on the roof.

Mr. Condouris stated yes, the mechanicals would be on the roof and they would also be placing screening around them.

Mr. Kennedy asked Mr. Condouris if this project would need to be fire suppressed.

Mr. Condouris stated that as of now it would not need to be fire suppressed.

Mr. Fichter began with the Planning part of the testimony. He stated that they are requesting relief for a D4 variance for Floor Area Ratio. They are proposing a Floor Area Ratio of 0.435 where 0.4 is permitted and 0.21 is existing. He believes the site can accommodate the additional floor area based on the proposed Use of the space as a dance studio. There are a couple C variances they are requesting relief for as well such as the front yard setback where 1.5 feet exists, 35 feet is required and there are no proposed changes to what is existing. The side yard setback is existing at 1.48 feet where 5 feet is required and there are no proposed changes to what is existing. There

is also a variance needed for a rear yard parking setback; existing parking is 1.5 feet off the property line, and they are proposing zero feet where 3 feet is required. They are trying to improve the parking by adding additional room for circulation and they are restricted by the narrowness of the site. He still believes the new design is a vast improvement. The awning sign area is proposed at 20 square feet where 10 square feet is permitted on an awning. They would like to reuse the existing sign and just place it on the renovated awning. ADA parking spaces are proposed at 16 feet wide and 18 feet long. There are 13 parking spaces proposed where 21 spaces are required. Lot coverage is permitted at 80%, existing is currently at 94.3%. They are improving lot coverage by proposing 92.7%. There are existing nonconformities such as lot width, lot frontage, side yard parking setback, and driveway width. They are able to eliminate aisle width for 60-degree parking and side yard setback for parking. He believes this application promotes the general welfare of the public because of the success of the business over the past 20 years. The improvements will only benefit the Borough by adding a new look to the site and promoting the business district which is one of the elements in the Master Plan. If the application was approved, he does not believe it would cause a substantial detriment to the Public good nor does he believe it would impair the intent of the zone plan.

That completed the applicant's testimony.

The Chairman opened the meeting to the Public for questions and comments.

Ruth Blaser, 523 River Road, Fair Haven was sworn. She would like the proposed second story to be set back from the sidewalk about 10 to 12 feet just like the restaurant next door. She believes it would provide continuity to the façade of the buildings. She asked Mr. Lehder if he had any idea what Fair Haven's downtown would look like in the future.

Mr. Lehder stated that he has no secret insight but after his review of the Housing Element and Fair Share Plan it has given him an idea of what it could be.

The Board proceeded with deliberation.

Mr. Kinsella stated that he understands Kick is a successful business and likes the proposed site plan improvements but would like to hear more or review the proposed second story and its other possibilities.

Mr. Neczesny does have a concern with the second story being so close to the sidewalk and would like to keep in mind what the rest of the business district may look like in the future.

Mr. Ridgeway has a concern regarding light and space of the area on River Road. He thinks pushing the second story away from River Road would help reduce this concern.

Dr. Laufer wants to make this proposal work, he believes it is a business that belongs in the town. He does have concerns with the future Use of the space. He stated that the Board should possibly consider adding a deed restriction that would only allow a dance studio to be permitted at this location. He also has a concern with the mass of the second story on River Road. He would also like to see additional lighting in the rear of the parking lot.

Mrs. Neff wants the business to stay in town but thinks the second story needs to be pushed back. She does not like the idea of a deed restriction.

Mr. Lehder likes the project and business but thinks the applicant needs to consider pushing the second story back and adding a cantilever to the rear of the building. He does not think there

needs to be a strict deed restriction for Use but maybe something that would require a new business to receive approvals prior to opening.

Ms. Quigley thinks that pushing the second story back would allow for more light into the studio and would only benefit the design. She thinks the plans were very well thought out and it will be a great Use for the town. She does not think the deed restriction is necessary as it may cause future difficulties by limiting the Use of the space.

Mr. Ryan agrees with the rest of the Board and applauds the efforts of the applicant and her professionals. He thinks they have really tried to reduce the impacts of the site. He likes the idea of pushing the second story of the building back. He would like to stay away from a deed restriction as well.

Mr. Brodsky requested that the application be carried to the December 3rd, 2020 meeting so the applicant and her professionals can revisit their plans and see what they can redesign based on the Boards comments.

MOTION by Mr. Lehder, second Mr. Neczesny to carry the Bruiser Woods, LLC application to the December 3rd, 2020 meeting without the necessity to re-notice and with a stipulation of an extension of time given to the Board to make a decision. This stipulation of an extension of time was given till the January 7th, 2020 meeting.

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

Opposed: None

Mr. Ludman rejoined the Board at 10:32pm.

3. ADMINISTRATIVE ITEMS

The 2019 Zoning Board Annual report was discussed and is in production and will be discussed in more detail at the next meeting.

MOTION by Mr. Neczesny, second Dr. Laufer, to approve the Flanagan, 8 Haggars Lane, Block 27, Lot 13, R-10A 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 from the October 1st, 2020 meeting.

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

Opposed: None

4. PUBLIC COMMENT

No questions or comments from the Public.

MOTION to adjourn unanimously by voice vote.

Meeting adjourned at 11:00 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.