

FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – May 6, 2021, 7:15 pm – Virtual meeting via Zoom Platform due to the COVID-19/Coronavirus Pandemic

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

Roll Call Present: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer, Mr. Kinsella, Mr. Schiavetti, Mr. Lehder

Absent: None

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

Mr. Lehder began the meeting with the Sullivan application:

Sullivan – 47 Lake Ave, Block 20, Lot 15, Zone R-5

Second story addition to the existing single-family house. Applicant seeks a variance for maximum habitable floor area - a maximum of 2,200 square feet is permitted; 2,328 square feet is proposed.

Mr. Irene asked that the record reflect that the Sullivan application was carried from an earlier meeting of the Board without the necessity of re-notice.

Ms. Gable, the Borough of Fair Haven's planner, was sworn in.

Jennifer Krimko introduced herself as the attorney representing the applicant. She also introduced the architect, Anthony Condouris, and planner, Andrew Janiw.

The applicant requested waivers regarding the completeness of the application for the Monmouth County Planning Board, Freehold Soil, and Monmouth County Health. Ms. Gable took no exception.

Mr. Irene asked if the Board had any questions regarding completeness.

Ms. Gable stated there were two additional completeness items under the application guidelines: the letter from the zoning officer and the statement of legal basis. For the zoning officer letter, the applicant did not apply to the zoning officer and instead applied to the zoning board directly. The applicant stated in their application that they will establish the proofs for the variance relief through testimony,

Mr. Irene said that land use law does not require an applicant to apply to the zoning officer for zoning. The applicant has the right to apply to the board if they wish to do so.

Mr. Lehder stated he had no issues with any of the items mentioned.

Ms. Krimko began with the issue of res judicata. Before she was involved in this application, this applicant came before the board and received a floor area ratio variance and some setback variances for a different addition than the application presented. The board approved that application. A neighbor objected and filed an appeal. The courts reversed that approval.

Ms. Krimko explained that the applicant is now before the board with a variance related to maximum habitable square footage. She claimed the application was very different.

Ms. Krimko explained that the doctrine of res judicata will only apply if the second application is substantially similar to the first, the same parties are involved, there's no substantial change in the application itself, or the conditions surrounding the property.

Ms. Krimko stated there are substantial changes in the application being presented to the board.

In the first application, they were proposing a two-story addition. Since the court overturned the variances granted, a smaller one-story addition was constructed on the house. Now, instead of a larger two-story addition, the applicant is seeking a smaller second floor addition, which is smaller than the one that was previously approved.

In the first application, a second-floor addition of 543 square feet was proposed with a balcony; the new application proposes a second-floor addition of 390 square feet. Additionally, the architect of record for this application found that the plans and the testimony relied on by the board in the first case had errors. The plans that the board granted an approval and the resolution, were not consistent with the actual plans that were approved. So, if the house were constructed 100% pursuant to the plans, the actual square footage that would have been permitted was 2522 square feet, not the 2376 square feet that were noted in the resolution.

Mr. Irene rebutted that the board did not approve 2500 square foot, they approved 2376 square feet.

Mr. Irene stated that the if the home had gone to the Building Department, they would have done the calculation of 2500 square feet, and would have said it exceeded what was approved. The resolution approved 2376 square feet.

Ms. Krimko reiterated that the applicant's position is at the plans that were presented to the Board showed a 2500 square foot house.

Mr. Lehder stated that the applicant testified on this application pro se in 2007, and they attested to all the data that was given to the board. The data that was given was incorporated into the resolution.

Mr. Lehder asked why this was relevant.

Ms. Krimko stated that the plans that looked at showed greater square footage.

Mr. Irene then commented that the court affirmed the setbacks of the first application. The court reversed the habitable floor variance.

Ms. Krimko stated that in the first application, there was a side yard setback, but not in this application. In this application, there is a front yard setback. In the first application, the house was increasing in size by 65%. In the current application, we're only increasing the house by 20% over what's existing there today. She summarized, the new application is a smaller addition, one story with no balcony, and the actual percentage increase in the house size of the massing is much less than what was previously approved.

Mr. Schiavetti commented that the comparison was not valid because half of the addition has already been built.

Ms. Krimko stated that the applicant's first floor addition was smaller than the first proposed addition. The home they are seeking will have 2328 square feet. The previous application was for 2376.

Ms. Quigley asked if the current first floor was built without variances.

Mr. Lehder corrected that the first floor was built in reliance on the variance that was granted. They utilize the variance that was granted to the setback, and constructed the first floor addition, in conformity with the resolution granted by the board, except to the extent it was overturned by the court.

Ms. Krimko added that it was a different and smaller floor plan that was built for the first floor. The addition took advantage of the variance that was granted for the setback.

Mr. Lehder suggested polling the board about res judicata.

Mr. Lehder read from the court's opinion on the previous application and stated reasons the application was deemed flawed by the court.

Ms. Krimko reviewed that if res judicata is overcome, she feels the changes are significant enough between the applications, that on appeal a different response would be given in court.

Mr. Irene made a few comments to the board and suggested they may wish to reserve on the issue of res judicata, hear the entire application, and then revisit res judicata at the end.

Ms. Krimko explained that the current architect prepared a plan that shows an overlay between the approved house, which you will see in the dark dashed lines versus the proposed house. Mr. Irene, with Ms. Krimko's consent, marked the overlay as Exhibit A-1, Comparative Zoning Analysis for Sullivan Residence.

Mr. Lehder stated that the applicant would like to use the board's time to share why this case is different from the old case. He deferred to Mr. Irene for res judicata.

Mr. Irene said that from a practical standpoint, it may make sense to make a full record. That would also give the board the opportunity to hear whatever Ms. Krimko and the applicant wish to present under oath with the witnesses, and have a chance to hear from their architect, and reserve on res judicata. At the end, the board can revisit, as necessary. Also if necessary, the board can make a determination on the merits. Mr. Irene stated that it is the board's decision to proceed.

Mr. Lehder asked if anyone felt strongly about not proceeding.

Mr. Schiavetti asked for clarification on whether they had to determine substantial difference in the proofs.

Mr. Irene stated that it appears the applicant will focus on whether the application is substantially similar to the prior.

Ms. Krimko offered that she didn't disagree with anything said, but offered that if the applicant overcomes res judicata, the board would need to consider the proofs that are before them, not as compared to the proofs that were previously before them, as they would for any application for a variance for the to exceed the habitable square footage.

Mr. Irene did not agree.

Ms. Krimko further stated that if the volume box that is being proposed this time is substantially different to overcome res judicata, then the board should look at this as a new application based on the proofs of this application.

Mr. Irene commented that he would leave that to the board.

Mr. Lehder stated he was ready to move forward.

Mr. Irene said that Ms. Krimko can present the testimony. He restated what the judge said about just conforming to the ordinance.

Ms. Krimko stated that she would like to explain why they cannot conform.

Dr. Laufer asked Mr. Irene if the application was approved, would it automatically go back to court.

Mr. Irene stated that it would not go back to court unless there was an appeal.

Dr. Laufer suggested if the case was overruled based on a specific reason, to go back to the court again, or to go approve it again, with that same specific reason that it was turned down the first time, is a little bit problematic.

Mr. Irene suggested that Mr. Lehder had expressed the same concern.

Mr. Lehder stated he felt bound by the court's decision. There's nothing about what you can present, which is going to change the fact that you're over in square footage. The judge said there was no reason to be over.

Ms. Krimko commented that there wasn't testimony as to why this is a better zoning alternative and wasn't testimony about the preservation of structures and conservation.

Mr. Irene stated that the resolution from the original application is 13 pages long. It references the fact that the outcome was working constrained in their design by working around the existing structure. It's a Dutch colonial with a center stairway that essentially divides the structure in half. It was difficult to design the proposed expansion around the existing features of the house. There were several iterations of the plan, each time attempting to reduce the excess floor area, and that this was the final plan that they could develop based upon the structure.

Mr. Lehder asked for any addition questions.

Mrs. Quigley asked for clarification on the overlay plans that Ms. Krimko had reviewed.

Mr. Lehder said the board was ready to proceed with testimony.

Mr. Irene stated they would reserve on the issue of res judicata.

Ms. Krimko introduced Anthony Condouris, architect, and asked to have him sworn in and move his set of plans into evidence.

Mr. Irene swore in Anthony Condouris, 20 Bingham Avenue, Rumson, NJ.

Ms. Krimko reviewed that Mr. Condouris is a licensed architect in the state of New Jersey and has testified before this board in the past.

Mr. Lehder accepted Mr. Condouris' credentials.

Ms. Krimko submitted architectural plans prepared by Mr. Condouris dated 6/4/20 and revised through 11/6/20. Mr. Irene marked them as Exhibit A-2. Mr. Irene also marked a survey dated 1/22/20 prepared by Charles V. Bell, Jr. as Exhibit A-3.

Mr. Anthony Condouris stated that the current house is 1938 square feet and consists of three bedrooms on the second floor. On the first floor at the rear of the house, there is an existing family room. The addition will add a master suite above the family room following the same roof line.

Ms. Krimko asked Mr. Condouris to review measuring habitable square footage.

Mr. Lehder asked what the square footage of the house was, as it is built today.

Mr. Condouris replied 1930 square feet, based on a physical measurement of the property.

Mr. Lehder asked if the difference between the original application and the proposed application is 50 sq. feet.

Ms. Krimko confirmed.

Ms. Krimko went back to Exhibit A-1 and reviewed the chart. She discussed the differences in the actual measurements and the measurements presented in the original plans.

Ms. Krimko stated that at the time of the original application, the board thought they were approving a house first floor from a current 812 square feet to 1269, but they were actually approving 869 square feet to 1322 square feet.

Mr. Condouris explained that the proposal is for 390 square feet for the second floor with no changes to the first floor. The front elevation looks basically the same. The left side elevation shows what is being added to the house and best shows the bulk being added. There was no practical way to put a master bedroom on the first floor of this house. Additionally, because the existing bedrooms are small, there is no way to use the existing space to add a master bedroom.

Dr. Laufer asked for the dimensions of the proposed master bedroom.

Mr. Condouris stated that the bedroom is 13.9 ft by 19 ft., 7.8 ft. by 8 ft. bathroom, and 7 ft by 6 ft closet.

Mr. Lehder asked Mr. Condouris for clarification on how the layout on the second floor is different from the layout on the second floor in the initial set of plans that were approved by the board in 2007.

Ms. Krimko asked that the original plans be marked as Exhibit A-4, the Montefiore plans, with dates 9/24/07, 7/16/07 (with the denial letter), and 2/20/08 (clarification for the board).

Ms. Krimko introduced Kathleen Sullivan.

Mr. Irene swore in Ms. Sullivan of 47 Lake Avenue.

Ms. Sullivan explained why the second story addition proposed was different than the previous plans. She spoke to the size of the master bedroom, the balcony being deleted from the plans, and smaller closets. She explained that they have worked with four architects. She also said that their original plans eliminated too much their backyard. When they constructed the first-floor addition, they did not go back as far, and eliminated their breakfast area, coming in two feet from their original plans. She stated that their plans for the second floor a similarly scaled back with a smaller bathroom and a single closet versus the original separate closet design.

Ms. Krimko corrected that they are coming in almost six feet shorter than the original plans.

Mrs. Quigley noted that this does not even include the balcony area that was deleted.

Ms. Krimko noted again the significant difference in size of the house originally proposed versus the plans for the current application.

Mr. Irene asked why the applicant can't conform.

Ms. Krimko stated that this is not a question for the architect or the applicant, but for the planner.

Mr. Lehder stated that the applicant is only losing 50 square feet based on the original resolution.

Ms. Krimko asserted that the applicant is losing 50 square feet based on the original resolution, but it's substantially reducing the overall size of the room and the addition.

Ms. Sullivan commented that she is on her fourth architect. Mr. Condouris told her the numbers used on the previous plans were wrong, and walked her through why. She feels her home is the proper size. Her family has lived in the house with the one-story addition, for the past 10 years or so.

Dr. Laufer asked that they walk through why the habitable floor area can't conform.

Mr. Condouris stated that to lose the 128 square feet, basically you would have to cut that master bedroom almost in half. So, it would be very difficult to get a decent sized master bedroom, bathroom, and closet. A bedroom would need to be eliminated from the rest of the house to create this master bedroom.

Mr. Lehder pointed out that it was the same issue in 2008 when we reviewed the original application.

Ms. Krimko asked Mr. Condouris, if he started over, and knocked down this house, could he design a house in a way that could conceivably fit the same living space, but make it more efficient, and have the stairways and hallways in a way that you can fit all the bedrooms, including the master bedroom, and the space and effectively have a more efficient house and do it within the 2200 square feet.

Mr. Condouris answered affirmatively and further stated that his firm has mastered squeezing all that stuff into these 2200 square foot houses in the R-5 zone. But, in the configuration of the existing Sullivan house, it would be almost impossible.

Mr. Lehder stated that the master bedroom could be made smaller.

Ms. Krimko reaffirmed that the applicant's testimony is that you can't create enough bedrooms for the family, with a master suite, in that 2200 square feet, based on the configuration of the house.

Ms. Gable had a few questions. She asked about exterior materials and color.

Mr. Condouris stated that he had not discussed this with the applicant.

Ms. Sullivan said she plans on beige or white. The materials will match what's existing, or they'll be changed consistently to match. It will remain cedar.

Ms. Krimko introduced Andrew Janiw, a licensed professional planner.

Mr. Irene swore in Andrew Janiw of 315 Highway 34, Colts Neck, New Jersey.

Mr. Janiw's credentials were accepted by the board.

Mr. Janiw said bulk relief was needed. He reviewed that the lot width was smaller than what is required in the zone – actual width is 50 feet and 70 feet is defined in the zone. Because it is a corner lot, it is even a narrower space. It will be 18 feet wide, if rear yard setbacks are applied – 18 feet by 95 feet. This would mean a railroad type home. He states that this would not be in character with the Master Plan.

Mr. Janiw submitted Exhibit A-5, an aerial view of the neighborhood. He described the character of the neighborhood and how many of the lots were narrower than what was defined for the zone they reside.

Mr. Janiw said that Sullivan house is a corner lot constrained by two front yards, and has a significantly constrained building envelope.

Ms. Krimko stated that the structure has changed from the original application. The statute itself indicates that the hardship can also be based upon exceptional circumstances relating to the structure existing.

Mr. Irene confirmed that this was in the previous application's resolution.

Mr. Irene stated that if the judge's decision should be questioned in the appellate court.

Ms. Krimko asked if Judge Lawson's decision is taken into consideration for all the cases considered by the board.

Mr. Irene stated that every application is considered on its merits.

Ms. Krimko reiterated that if the board determines that the new application is substantially different, or it's not substantially the same to quote, the language of the law, then the board is not constrained by Judge Lawson's decision on the former case, any more than they would be on any application that comes before them.

Ms. Krimko argued that the question before this board is whether the application is substantially different irrespective of Judge Lawson's holding.

Discussion continued about the significance of the new application versus the old application.

Mr. Schiavetti mentioned that the board doesn't approve plans, but approves the variance based on the plans.

Ms. Sullivan addressed why they did not appeal the original decision. They were focused on medical issues of a family member.

Exhibit A-6 was introduced by Mr. Janiw, a photograph of the property dated 2/3/21. The square footage is incorrectly referenced on the photo. The photo depicts the current condition of the property. The property is meticulously maintained. There is an opportunity to work with an existing structure. It was described as a 5% deviation in terms of square footage that is proposed for the renovation. The proposal is to work with the existing home and make it more livable while maintaining the neighborhood character. Renovating the home will not have substantial detriment to the public good; it would not cause noise, trash, traffic, or drainage issues.

Ms. Krimko asked "Is it your testimony that under the C2 criteria, this is a better zoning alternative than compliance because it would mean you could keep a structure that had been there for 100 years as opposed to tearing it down?"

Mr. Janiw stated the benefit is that the home is attractive, well maintained with the character of the neighborhood. The opportunity is to save the home. It's a modest addition, the deviation is modest, it creates livable space, while maintaining the character of neighborhood. His opinion is the application meets C1 criteria.

The meeting was opened for public comment.

Richard Singh of 15 Glenn Place, Fair Haven was sworn in. Mr. Singh is a neighbor adjacent to the Sullivan property. He stated that he sees no detriment to the addition. He is in support of the application.

Beatrice Sena of 39 Lake Avenue, Fair Haven was sworn in and stated her support for the application. Her property is also adjacent to the Sullivan home.

Beverly Lawrence of 48 Lake Avenue, Fair Haven was sworn in. She lives across the street and believes the application will enhance the beauty of the home.

Rob Thompson of 22 Glenn Place, Fair Haven was sworn in. He supports the application.

Ms. Krimko made a closing statement.

Mr. Ludman asked Mr. Irene to what extent the board is bound by the previous ruling. He asked if res judicata is passed, is the board in a position to look at the application on its merits and these facts that have been presented, rather than facts that were presented previously.

Mr. Irene did not disagree with this logic.

Mrs. Quigley commented on the previous ruling of Judge Lawson and how she believes the current case is substantially different.

The board continued to deliberate regarding res judicata.

Mr. Lehder complimented the board regarding their careful consideration.

Mr. Irene confirmed that variances were requested for habitable floor area and vertical exacerbation of front yard setback as a result of the proposed second floor.

Mr. Lehder asked for information of Mr. Irene regarding voting.

Mr. Lehder asked for a motion regarding res judicata.

MOTION by Ms. Quigley, second by Ludman that res judicata does not apply to prevent the board from considering the application before us tonight.

In favor: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer

Opposed: none

Abstain: Lehder

MOTION by Neczesny, second Quigley to approve the Sullivan application for variance relief in the amount of 2328 square footage and exacerbation of the front yard setback vertically at 7.1 feet.

In Favor: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer,

Abstain: Lehder

Opposed: none

Mr. Lehder suggested that the McElduff application be carried to the next meeting on May 20 meeting.

A summary of the McElduff application:

McElduff – 31 Heights Terrace, Block 68, Lot 6, Zone R-10B

Renovate and construct an addition to the existing residential dwelling. The applicant seeks a variance for combined side yard setback for principal structures where 58 feet is required, and 43.9 feet exists (a pre-existing non-conforming condition); and 38.06 is proposed. Applicant also seeks a variance for maximum permitted habitable floor area – 3,220 square feet is permitted, and 2,068 square feet exists; and 3,780.8 square feet is proposed.

Notice was confirmed as complete with the Board secretary.

Mr. Irene stated that the McElduff matter, 31 Heights Terrace, is being carried to May 20, 2021 without the necessity of re notice. And Mr. Aikens gave a stipulation extending time.

MOTION Lehder, Second Neczesny to carry the McElduff application to the May 20, 2021 meeting with a stipulation extending time.

In favor: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer, Mr. Lehder

Opposed: none

Mr. Lehder moved on to the next application for:

Bunge – 7 Hillside Place, Block 66, Lot 9, Zone R-10A

Front covered porch. Variance needed for the front yard setback.

Mr. Irene stated that this application was listed in an earlier meeting of the Board, and was carried, without commencement, to give the applicant an opportunity to perfect the notice only by serving the clerk of a municipality within 200 feet.

Mr. Lehder requested a five-minute break.

Upon return Mr. Lehder confirmed that Mr. Bunge and Mr. Scalise would be presenting the application.

Ms. Gable was sworn in by Mr. Irene.

Mr. Irene asked about completeness waivers.

Ms. Gable stated that waivers were requested for the Monmouth County Planning Board, Freehold Soil Conservation, and the Monmouth County Health Department. Additionally, waivers from the application guidelines were requested which included the complete floor plans. The applicant requested a waiver, noting that the design had been approved through permits, however, not the front porch. The applicant also requested a waiver from the zoning schedule, which must include habitable floor area and floor area ratio.

Ms. Gable said that in the application guidelines, there the requirement is for a zoning schedule that must include the habitable floor area and floor area ratio. And the applicant did provide a bulk chart, but the habitable floor area in the ratio was not included.

Mr. Lehder summarized, that it appears as though there's a substantial renovation going on, but nothing is being put before the board other than the request for the variance for the porch. So, while technically all those things are required, the board is being asked not to look at them or touch them.

Roll Call was taken after all returned from the break.

Present: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer, Mr. Kinsella, Mr. Schiavetti, Mr. Lehder

Absent: none

Antonio Scalise, licensed architect of NJ, NY and PA, of 494 Broadway in Long Branch, New Jersey was sworn in. His credentials were accepted.

Mr. Scalise reviewed the applicant's request for waivers. He mentioned the waiver was requested because the items were already approved for the renovation. He said that there are a couple of variances needed for the porch, but the other home renovations are compliant with the floor area ratio.

Chris Bunge of 7 Hillside Place, Fair Haven was sworn in.

Mr. Irene noted a set of plans prepared by Antonio Scalise dated October 2, 2020, revised through and including November 2, 2020 marked as Exhibit A-1. A survey that was submitted prepared by Charles Surmont for 2019, (a signed/sealed copy is in the Board office), is marked as Exhibit A-2.

Mr. Bunge confirmed the survey from 2019 continues to fairly and accurately depict the conditions with the property.

Mr. Bunge introduced himself and explained how his family wanted to complete the design of his home by adding a front porch.

Mr. Scalise explained that there was an approval for building permits for renovation work, which was described in the engineer review letter. He then reviewed the site plan.

Mr. Scalise explained there was a renovation to the home that included a second story addition. He described the front porch and introduced Exhibit A-3, the architectural plans.

Mr. Scalise stated that the front porch was designed to enhance the entry. The porch is as minimal as possible - four feet from the face of the existing property, which by the survey is 24.6 feet. The porch comes out four feet towards Hillside Place.

Mr. Lehder confirmed the dimensions of the porch.

Mr. Irene asked to confirm the length of the porch.

Mr. Scalise stated 21 feet.

Ms. Gable stated that the front yard setback shown on the survey is 24.5 feet to the front left corner. The right corner is 24.6 feet.

Mr. Scalise agreed.

Mr. Lehder asked how high the porch is.

Mr. Scalise said it is probably 16 inches.

Mr. Neczesny asked the size of the step.

Mr. Lehder suggested using 16 inches as the measurement.

Mr. Irene confirmed the measurement for the setback as 24.5 feet minus 4 feet minus 16 inches.

Mr. Lehder asked about the photos and the neighboring properties.

Mr. Scalise explained the purpose of the photos was to show similar homes with similar character, and scale. Mr. Scalise stated there is a hardship due to the existing nonconformity of the lot depth and being a corner property.

Mr. Lehder commented that in order to put a porch on, it would have to be in the front yard because you're dealing with a structure that's already non-conforming.

Mr. Scalise agreed.

Mr. Neczesny asked Mr. Scalise to address the distance between the lot line and the curb line.

Mr. Scalise said the right of way is 10 feet. Exhibit A-4

Mr. Neczesny asked about trees remaining on the property.

Mr. Bunge said the tree depicted on the right of the photo is still there. The tree on the left is gone.

Mr. Lehder suggested that because it's a corner lot, attention should be paid to the Buena Vista side of the home. He was disappointed that there wasn't anything specific added to this side of the home.

Mr. Neczesny pointed out there is excess setback on the Buena Vista Avenue side of the home.

Mr. Lehder suggested looking at the decorative elements of the front and incorporating them into the side of the home.

Mr. Lehder requested for board input on the application.

Mr. Ridgeway asked if construction was in progress at the site.

Mr. Irene confirmed that construction is already approved. There was a permit approved minus the front porch.

Mr. Irene confirmed that the front porch is encroaching on the setback. It's exacerbating your front yard setback.

Mr. Lehder advised that board that they should assume that everything that's being done is otherwise fully conforming and permitted. They showed a plan that didn't have the front porch and build for their permits.

Mr. Lehder further explained that the board should consider that the applicant is working around an existing structure and do you think it looks better with a porch. Also, consider if it is a better zoning alternative for the house to have a front porch, notwithstanding the deviation from the front yard setback.

Mr. Schiavetti stated that he is concerned about applications being submitted after the house is constructed.

Mr. Irene stated that the front yard setback is a pre-existing condition for this home and Mr. Scalise confirmed.

Mr. Lehder suggested more ideas to enhance the side yard.

Mr. Scalise agreed to consider the options.

Mr. Bunge showed images of neighboring properties, and Mr. Scalise confirmed that the setback is slightly more forward than the neighboring properties.

Mr. Irene asked that the Google arial be marked Exhibit A-5.

Mr. Lehder asked board members for comments.

Ms. Gable had some questions. She asked about work proposed on the garage that would impact the setback.

Mr. Scalise said no.

Ms. Gable asked that the applicant confirm that the addition complies with all setbacks

Mr. Scalise confirmed.

Ms. Gable asked about landscaping or tree removal as part of the project.

Mr. Bunge stated they plan for landscaping and no tree removal is planned.

Ms. Gable asked about older trees within the front yard, any changes to the utility connections, and whether utility connections are underground.

Mr. Bunge stated he is not sure.

Mr. Schiavetti asserted that chairs will not fit on the porch based on the width.

Mr. Scalise stated that the porch is strictly for aesthetics.

The meeting was opened for public comment. There were no public comments.

Mr. Lehder asked the board for comments.

Mr. Neczesny thinks the application is a modest request and adds to the home.

Dr. Laufer thinks the cosmetic appearance outweighs the encroachment.

Mr. Kinsella agrees and is pleased with the porch. He also gives his distance from the home at approximately 400 feet.

Mr. Ryan agrees with the other comments.

Mr. Lehder proposed to prepare a resolution with an obligation by the Bunge family to treat the Buena Vista Avenue side in a similar fashion as the is it on Hillside. He also suggested the resolution include not disturbing significant trees that remain in those two front yard areas and protecting the trees.

MOTION by Lehder Second by Neczesny to approve the Bunge application, with the approval conditioned on the testimony and conditioned on the plans. Front yard setback for the porch would be 20.5 feet and 20.6 from the two sides, and the step to encroach 16 inches further. The motion is also conditioned on similar treatment of the Buena Vista Avenue side of the home with decorative features similar to the front, and preservation of the significant shade trees in the two front yards including protection during construction.

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

Opposed: none

Mr. Lehder asked Mr. Neczesny to go over the administrative items.

MOTION Neczesny, Second by Lehder, to approve the Feminello resolution.

In Favor: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer, Mr. Lehder

Opposed: none

Mr. Schiavetti asked if there's any feedback on whether there was an issue with buffering up from the engineers.

Mr. Lehder said he hadn't heard anything since the last meeting.

MOTION Neczesny, Second by Ryan, to approve the Keefe resolution.

In Favor: Mr. Neczesny, Ms. Quigley, Mr. Ridgeway, Mr. Ryan, Mr. Ludman, Dr. Laufer

Opposed: none

MOTION Neczesny, Second Ryan, to approve the Zimmerer resolution.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, Schiavetti

Opposed: none

MOTION Neczesny, Second Ryan to approve the April 8 meeting minutes as amended by Mr. Neczesny.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, Laufer, Lehder

Opposed: none

The meeting was open to public comment. There was none.

MOTION by Mr. Lehder to adjourn that was carried by voice vote. The meeting was adjourned at 11:11 pm.

Respectfully submitted,

Sandi Papa

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.