

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – July 8, 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 pm 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, Heyer Gruel and Associates, Board Planner.

Mr. Lehder explained the role of the Zoning Board.

Mr. Lehder recognized the passing of resident, Jim Ingle, who served many years on the Zoning Board. Mr. Lehder expressed gratitude for all the work he did on the Board and how important he was to our community.

Mr. Lehder suggested covering the “Update on stormwater rules” agenda item first and called upon Mr. Gardella, Borough Engineer. Mr. Gardella explained the term riparian zone and reviewed the Borough’s ordinance relating to Storm Water Management. He suggested that each project is reviewed individually. The ordinance is based on a model ordinance from the State.

Mr. Schiavetti asked why there is a separate ordinance if there is a state law, and asked about permit by rule and the Zoning Board’s authority.

Mr. Irene suggested that this may be an issue to go back to the Borough Council.

Mr. Gardella said that the applicant is working with the Borough on regulations from the DEP.

Mr. Lehder confirmed that the town ordinance runs parallel to the State ordinance. It is up for the Board to decide that the ordinance is unclear and go to the Council for clarification.

Mr. Irene will prepare a short note to Council for clarification on the ordinance.

Mr. Lehder introduced the McCue application.

McCue – 11 William Street, Block 45, Lot 26, Zone R-5.

Add a second story to and renovate existing dwelling. The applicant seeks variances for lot area, lot frontage, lot depth, front yard setback, rear yard setback, side yard setback, number of stories, building coverage, lot coverage, habitable floor area ratio, windows, and parking.

Mr. Irene reviewed that the McCue application was carried from the June 3, 2021 meeting.

Ms. Gable was sworn in as the Borough Planner.

Mr. McCue, applicant, and Mr. Cronin, architect, were sworn in.

Mr. Irene marked the following exhibits:

Exhibit A-3 - Revised architectural plan

Exhibit A-4 - SK1 and SK2 sheets dated 7.8.21 – cleaned up version of previous submission

Exhibit A-5 Plot Plan dated 7.8.21

Mr. Cronin reviewed the architectural plans and the changes from the previous submission, including making the front porch asymmetrical. The first floor stays intact, except for the removal of a coat closet, and the second floor is pushed back three feet with the cantilever one foot to the back. For the plot plan, Mr. Cronin reviewed the variances and changes from previous submission.

Mr. Cronin confirmed that the front wall of the porch has been moved back by one foot. Mr. Neczesny asked if the front steps would be in line with 9 William Street. Mr. Cronin confirmed it would be in line with the stairs.

Dr. Laufer asked about moving the building further from the street.

Mr. Cronin suggested that the porch is moved into the house one foot for the entrance and the porch is next to the entrance.

Mr. Irene asked for clarification on the Floor Area Ratio (FAR). Mr. Cronin confirmed the existing FAR is .7 including the basement.

Mr. Lehder asked about the ridge height. The ridge height is 27.2 feet as average grade to the ridge, as measured per ordinance. It will be two feet higher than 9 William Street.

Mr. Cronin also reviewed the building and lot coverage calculations.

Ms. Gable asked for confirmation that building coverage includes the cantilevered portion of the building and Mr. Cronin confirmed.

Mr. Ryan asked about the front and rear setback.

Mr. Cronin then reviewed new drawings of the home, including the room calculations, and did a comparison of the previously submitted drawings to the current drawings.

Mrs. Quigley asked about the variance associated with the basement.

Ms. Gable reviewed the difference between a cellar and a basement. Because 11 William has a basement, the basement is counted as a half story and is used in the calculation of habitable floor area.

Ms. Gable asked about materials and colors for the exterior.

Mr. Cronin confirmed vinyl siding, asphalt shingled roof, vinyl clad windows, Aztek trim, PVC columns, vinyl railing, cement block at foundation, and thin brick at the base of the front porch.

Ms. Gable also asked about landscaping.

Mr. Cronin said he would work with the McCues to come up with something acceptable.

Mr. McCue suggested typical foundation plantings.

The meeting was opened to the public.

Jennifer Spitz, 26 William Street, was sworn in and is in full support of the revised plan.

There was no additional public comment.

Mr. McCue asked that the most recent plans be forwarded to the Board. Mr. McCue thanked the Board for their consideration and thoughtful comments.

Mr. Lehder asked the Board to deliberate.

Mr. Neczesny thanked Mr. Cronin for making the requested changes and reminded the board of the size of the property. He is in full support of the application.

Mr. Ryan acknowledged the challenge of the property. He did bring up the shutters on the north side of the home and asked that this be included in the resolution if the application moves forward.

Mr. Ludman also stated that the property is difficult and stated that the architect and applicant took into consideration the concerns raised by the Board regarding the previous plans.

Dr. Laufer stated that the house and lot are modest. He spoke that the lot is 30% of what is required for the Zone. He believes that the architect has done a good job.

Mrs. Quigley is in favor of the application.

Mr. Ridgeway agrees with the comments of the other Board members.

Mr. Schiavetti stated that larger houses continue to be built on smaller, non-conforming properties.

MOTION by Mr. Neczesny and second by Mrs. Quigley to approve the application with the following conditions:

1. Revised plans to show shutters on the north side
2. Conforms with the planner's letter

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Abstained: Lehder

Mr. Lehder introduced the next agenda item, the McElduff application.

McElduff – 31 Heights Terrace, Block 68, Lot 06, 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.

Ms. Gable was sworn in as the Borough's professional planner. Mr. Irene reminded that the application was carried from the May 20, 2021 Zoning Board meeting.

Mr. Aikens is the applicant's attorney. Mr. Aikens reviewed that his client had reduced the cap variance by 239 square feet, with 200 square feet from the second floor. The combined side yard setback has been eliminated.

Mr. and Mrs. McElduff, the applicant; Mr. Lawrence, the architect; Jason Fichter, the planner/engineer were present at the meeting.

Mr. Lawrence was sworn in. Mr. Irene confirmed additional plans were submitted and marked the exhibit as follows:

Exhibit A-4 – Architectural drawings from I House with last revision date of June 22, 2021

Mr. Lawrence shared the drawings and reviewed the changes to the plans. He mentioned that the back of the house was pulled in to eliminate the side yard setback variance.

Exhibit A-5 – color enhanced of sheet A-8, was shown depicting a smaller mud room with a reduction of 38.2 feet on the first floor. The second floor was brought in 8 inches on the second floor. The bulk of the change is over the garage on the left of the house with a reduction of 200.8 square feet.

Mr. Lehder asked why the square footage was lost if the dormers remained.

Mr. Aikens requested that Mr. Lawrence bring up the elevation drawings.

Mr. Lawrence reviewed those reductions in size to the home in the rear. He also spoke to the changes to the room above the garage.

Mr. Lehder asked about any change in the envelop for the reduction in square footage.

Mr. Lawrence confirmed there was no change in the elevation. He presented a comparison of aesthetics drawing of the North elevation.

Mr. Irene marked the new diagram:

Exhibit A-6 – Comparison sketch north elevation

Ms. Gable stated that for habitable floor area would include the areas within the dormer.

Mr. Lehder confirmed the measurements needed for habitable floor area.

Mr. Lawrence stated that it is an honest attempt to eliminate some square footage.

Mr. Aikens stated that the Board has a less aesthetically pleasing alternative.

Mr. Lehder stated that these are not the only options.

Mr. Aikens stated that the applicant wants to exceed the habitable floor area cap by 321 square feet.

Ms. Gable stated that the calculations don't take into consideration the dead space above the garage.

Ms. Gable asked if there are other opportunities to shave off habitable floor area in other areas of the home.

Mr. Aikens asked that Mr. Fichter testify.

Mr. Jason Fichter, In Site Engineering, 1955 Route 34, from Wall NJ was sworn in.

Mr. Fichter's credentials were reviewed and accepted by the Board.

Mr. Fichter spoke to the property being in the R-10B zone and reviewed the requirements for the lot. He also stated the proposed floor area ratio and lot coverage is below the maximum permitted by ordinance. Additionally, he reviewed the applicant's needs, and with the house being built in 1950, that the second floor is beginning to sag. He reminded that this is not a tear down, but a redesign, as is preferred in the Master Plan. He continued with the benefits of renovating the home.

Mr. Fichter used the tax records and Zillow to look at habitable floor area and floor area ratios within the 200' area surrounding the home, and outside of the 200' area in the surrounding neighborhood. He states the data shows that the home is consistent with the scale of the neighborhood.

Exhibit A-7 – Arial view of homes in the area and properties within 200' radius

Mr. Fichter does not feel this application has a substantial detriment to the public good or substantial impairment to the intent of the zone plan.

Mr. Lehder asked for clarification on the homes shown, stating that it appears selective and doesn't look at the majority.

Mr. Irene suggested that the argument should be made to the governing body regarding the ordinance and variances granted in the surrounding neighborhood.

Mr. Fichter reminded the Board that the house needs a renovation to bring it to modern standards. The option is available to tear down the home, but the McElduffs have chosen renovation.

Mr. Neczesny stated that the Board does not always agree with State tax records and Zillow.

Mr. Schiavetti asked about the square footage of the property and stated that the tax records show 1846 square feet, and the plans show that the existing property is 2069 square feet.

Mr. Aikens stated that he will look at the variances through resolutions from the Board for the neighborhood.

Mr. Lehder stated that the Board is not confident in the data being presented. He asked for further testimony on the balance of renovation versus reconstruction.

Mr. Fichter restated that he had presented the negative and positive criteria.

Mrs. Quigley asked about habitable floor area. A conversation ensued on the calculation of habitable floor area.

Ms. Gable stated that the calculation of habitable floor area is from exterior wall to exterior wall. This was developed to control the massing of homes.

Mr. Lehder stated that he believes the calculation is greater than what is being presented.

Mr. Schiavetti asked about the plans and the second floor with a fixed set of stairs. There was conversation regarding habitable attic versus habitable floor area. He suggested removing the fixed staircase.

Mr. Aikens thought the attic was not considered habitable floor area.

Mr. Lehder suggested that it would be included.

Mr. Neczesny suggested that changing the hallway for the attic does not change the façade.

Mr. Lehder reminded that the ordinances are intended to constrain the size of the structure.

Mr. Fichter stated that the home proposed is compliant except for habitable floor area.

Mr. Lawrence asked for clarification on the attic calculation.

Mr. Aikens requested that the matter be carried to September 9, 2021.

MOTION by Mr. Lehder second by Mrs. Quigley to carry the McElduff application to September 9, 2021.

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

Opposed: None

Mr. Lehder recused himself from the Cady application and was placed in the gallery.

Mr. Neczesny introduced the Cady application and asked that the Cady application be moved to the August meeting because of time constraints.

Cady – 137 Grange Avenue, Block 22, Lot 53, Zone R-30

Applicant seeks to construct a circular driveway and seeks relief for certain 'c' variances: Proposed lot coverage with driveway and patio additions is 41.97%, where 30% is permitted; proposed number of driveway accesses to street is two, where only one is allowed; and not more than 25% of the front yard shall be used as driveway or for off-street parking, and more is requested.

Mr. Michael Herbert is the attorney for the Cady application.

Mr. Irene asked if there were concerns from the public regarding the notice materials. There were none.

Mr. Herbert prefers the July 15 meeting without the necessity to re-notice.

MOTION by Mr. Neczesny and second by Dr. Laufer to carry the Cady application to July 15, 2021 without the necessity to re-notice.

Mr. Herbert asked to change from the July 15 date to August 19 and will stipulate time to August 20.

MOTION by Mr. Neczesny and second by Mrs. Quigley to carry the Cady application to August 19, 2021 without the necessity to re-notice.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Absent: Lehder

Mr. Irene stated that the meeting may be live on August 19, 2021 and interested parties should check with Borough Hall regarding the venue for the meeting.

Mr. Lehder was not able to rejoin the meeting due to technical difficulties.

Mr. Neczesny addressed the administrative items on the agenda.

MOTION by Mr. Neczesny and second by Mrs. Quigley to approve the June 3, 2021 meeting minutes.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Absent: Lehder

MOTION by Mr. Neczesny and second by Dr. Laufer to approve the Shaw resolution as submitted.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Absent: Lehder

The Board discussed live meetings. Mrs. Quigley asked if the documents would continue to be posted on the Borough website.

MOTION by Mr. Neczesny second by Mrs. Quigley to move to in-person meetings.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Absent: Lehder

MOTION by Mr. Neczesny and second by Mrs. Quigley to cancel July 15, 2021 meeting due to lack of agenda.

In favor: Neczesny, Quigley, Ridgeway, Ryan, Ludman, and Laufer.

Opposed: None

Absent: Lehder

Mr. Neczesny opened the meeting to the public. There was no public comment.

MOTION by Mr. Neczesny to adjourn that was carried by voice vote. The meeting was adjourned at 9:18 pm.

Respectfully submitted,

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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.