

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes - September 9, 2021, 7:15 pm –
Virtual meeting via Zoom Platform due to the COVID19/Coronavirus Pandemic**

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

Roll Call

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

Absent: Mr. Lehder

Also Present: Mr. Irene, Board Attorney; Ms. Gable, Heyer Gruel and Associates, Board Planner; Mr. Gardella, Borough Engineer.

Mr. Neczesny introduced the first 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.

Mr. Neczesny asked if there was anyone on the Zoom call for the McElduff application. No one from the public responded. Mr. Neczesny stated that the McElduff's attorney had requested the application be carried to the October 7, 2021 meeting.

MOTION by Mr. Neczesny and second by Dr. Laufer to move the McElduff hearing to the October 7, 2021 meeting without the necessity to re-notice subject to the applicant giving a stipulation extending time to act, in the case that have not already done so.

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

Opposed: None

Mr. Irene confirmed that no one from the public had spoken when called regarding the McElduff application.

Mr. Neczesny introduced the second application:

Burke – 104 Willow Street, Block 55 Lot 7, Zone R-10A

Applicant seeks to construct a single-family home and seeks variance relief for: total side yard setback, habitable floor area ratio, total lot square footage, and lot frontage.

Mr. Neczesny stated that the attorney for the Burke application, Mr. Sarto had written a letter to the Board also requesting to move their hearing date to October 7, 2021.

Mr. Neczesny asked if there were any interested parties for the Burke application. There were none.

MOTION by Mr. Neczesny and second by Mr. Kinsella to move the Burke hearing to the October 7, 2021 meeting without the necessity to re-notice subject to the applicant giving a stipulation extending time to act, in the case that have not already done so.

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

Opposed: None

Mr. Irene then confirmed there were no interested parties for the Burke application.

Mr. Neczesny introduced the third application:

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. Irene confirmed the application was carried from the August 19, 2021 meeting.

Ms. Gable, Borough Planner, and Mr. Gardella, Borough Engineer, were sworn in by Mr. Irene.

Mr. Michael Herbert with the law firm of Parker McCay introduced himself as the attorney for James and Stephanie Cady of 137 Grange Avenue and briefly described the project for their driveway/patio and their request for relief for bulk variances. Mr. Herbert introduced the professionals that will be appearing:

Mr. Bill Jensen, Jensen Design Group

Christine Cofone or Justin Auliello, Planner

Ms. Gable listed the completeness waivers needed: Monmouth County Planning Board application; Freehold Soil Conservation District; Monmouth County Health Department; Easements, Covenants and Deed Restrictions; waiver for building height and habitable floor area square foot and ratio; size and location of any existing and proposed structures and setbacks; floor plans of existing and proposed conditions; elevations of sides of structure with string dimensions; detail to the calculation of habitable floor area; and location and type of attic access.

Ms. Gable stated that the Zoning Officer requested the applicant provide information about driveways and information about the street opening permit and plan for stormwater management.

Mr. Irene reminded the Board that they must be comfortable with the requested waivers to move forward.

Mr. Neczesny asked for clarification about the driveway opening. Mr. Gardella stated that the plan indicates that there will be new aprons and driveway openings created.

MOTION by Mr. Neczesny and second by Mr. Ludman to grant the requested waivers.

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

Opposed: None

Mr. Herbert marked the exhibits for the Cady application as follows:

A1 – Application Checklist

A2 – 200' list

A3 – Zoning Officer Denial Letter dated 3/1/21

A4 – Survey by Justin J. Hedges, PLS of InSite Surveying LLC dated 11/14/21

A5 – Driveway Variance Plan from William E. Jensen, Jr. PE of Jensen Design, dated 8/16/21

Mr. Herbert reviewed the history of the application. The applicant had originally submitted a Zoning Board application with the proposed work and a pool. The application was withdrawn.

An additional exhibit was introduced:

A6 – Neighbor, Cole, and Cady Agreement of 7/8/21 – will be submitted. The Coles do not object to the application and Cadys will put in a 20' tall maple tree to better buffer the two properties. Side yard landscaping is also part of the agreement. The agreement also protects the existing trees and protection of the root systems.

Mr. Neczesny asked where the neighbor is located. The Cole property is to the left of the Cady's property when facing the property.

Mr. Schiavetti asked why the Cole agreement is not hearsay. Mr. Irene said that as part of the applicant's agreement with their neighbor, the agreement was read into the record.

Mr. Herbert agreed that the letter would be sent to the Zoning office and forwarded to the Board.

Mr. Irene reviewed how agreements with neighbors can be stipulated into resolutions.

Mr. Herbert summarized the testimony that will be heard and the variances that are requested.

Mr. James L. Cady of 137 Grange Avenue was sworn in by Mr. Irene.

Mr. Cady introduced himself and summarized the project. He thanked the Board for their consideration. He gave the history behind the installation of the pool and withdrawal of the previous application in 2019 for the

driveway and patio. He also spoke of safety issues with teenage drivers. He also suggested an improvement in curb appeal.

Mr. Neczesny asked why the original application was withdrawn. Mr. Cady suggested that he was negotiating with the neighbors. He decided that with COVID, the pool was more important than the driveway to his family.

Mrs. Quigley confirmed there were no variances needed to put in the pool once the driveway was removed. Mr. Cady suggested that he decided to put in the pool over keeping the circular driveway.

Dr. Laufer asked if there is a plan to park cars in front of the house. Mr. Cady confirmed that cars will be parked primarily in the back.

Dr. Laufer asked if there is room for a K-turn in the back yard. Mr. Cady confirmed that there is not room for a K-turn.

Mr. Neczesny asked about traffic on the street. Mr. Cady stated that there is a lot of foot traffic and bicycle traffic on their street. Mr. Neczesny asked about the minimum frontage for two cuts.

Mr. Schiavetti stated that lot frontage for two curb cuts is 150 feet. Ms. Gable confirmed.

Dr. Laufer asked about the stone pillars in the plans. Mr. Cady suggested that the pillars are five feet tall. They are more decorative.

Dr. Laufer is concerned about the pillar and the tree being preserved. Mr. Cady said the pillars are going to be set back and deferred to his engineer.

Mr. Irene opened the meeting for public questions for Mr. Cady. There was no response.

Mr. Herbert called Mr. Jensen

William E. Jensen Jr. was sworn in. He stated his address as 2150 Route 35, Suite 250, Sea Girt, NJ.

Mr. Jensen is the owner of Jensen Design Group and has a BA in Civil Engineering and has been licensed in NJ since 2004. He prepared the plan for the Cadys. His credentials have never been rejected by a Board in NJ.

The following exhibit was introduced:

A7 – Cleared rendering of A-5 dated 8/19/21

Mr. Jensen gave his testimony and reviewed the property, surrounding zones, and existing conditions including the pool, and what is being proposed. For the current property, 29.98% is the existing lot coverage. For the

front yard, 14.68% is the existing front yard coverage. The proposal includes no changes to the structures. The patio will be a blue stepping-stone patio and circular driveway in the same location it previously existed.

Mr. Jensen reviewed the placement of the pillars and the tree. He stated it will not impact the health of the tree previously mentioned.

Mr. Jensen reviewed the proposed projects and new lot coverage. The proposed lot coverage is 41.97%, where 30% is allowed. The front lot coverage is 25%, where proposed is 42.2%.

Additionally, Mr. Jensen confirmed that the lot width is deficient of the 150 feet requirement for two curb cuts.

Mr. Jensen reviewed the stormwater management system ideas and will confirm his plan with the Borough engineer if the application is approved. The project will improve the current system of stormwater management.

Mr. Jensen also mentioned that the back area by the garage will be repaved with asphalt and the rest of the driveway will be gravel.

Dr. Laufer asked about maximum lot coverage and requested that the engineer confirm it is measured according to the Fair Haven ordinances. Mr. Jensen confirmed.

Ms. Gable asked that the pillars be included in the impervious coverage. Mr. Jensen will confirm.

Ms. Gable asked if there is room to eliminate impervious coverage in the front yard. Mr. Jensen said he could remove 400 square feet from the driveway.

Mr. Schiavetti asked how long Mr. Jensen has worked on the project. Mr. Jensen confirmed he has been on the project for two years.

Mr. Neczesny asked for input from Mr. Gardella regarding stormwater management. Mr. Gardella explained the system and explained that there is not a large pitch on the property. He also said the proposed system will be a benefit to the project. Mr. Ryan asked about maintenance on the system. Mr. Gardella explained it was minimal to maintain. Mr. Schiavetti asked about the 150' width required for two curb cuts. Mr. Gardella explained the ordinance.

Mr. Neczseny opened the meeting to the public for Mr. Gardella and Mr. Jensen.

There were no questions from the public.

Mr. Irene swore in Mr. Justin Auciello of the Cofone Consulting Group of 125 Half Mile Road, Suite 200, Red Bank, NJ 07701. Mr. Auciello has a Masters degree in City Regional Planning from Rutgers, has been a planner

since 2008, has testified at various municipalities, and has created several Master Plans. His credentials are current and have never been rejected by a Board. Mr. Neczesny accepted Mr. Auciello's credentials.

Mr. Auciello presented a new exhibit:

A8 - Ariel view dated 8/19/21; tax map superimposed on the google map (2019).

Mr. Neczesny asked that the planner speak to the neighboring properties.

Mr. Auciello confirmed there are no circular driveways on the same side of the street as the Cady residence. There are two properties on the opposite side of the street with circular driveways. The circular driveways are in keeping with the character of the neighborhood. He also referenced the number of pools in the neighborhood.

Mr. Auciello spoke to the positive and negative criteria of the variances sought. He stated that the variances should be granted under the C2, and believes the benefits outweigh the detriments.

The following benefits were reviewed:

- Improvement current conditions, inclusive of the landscaping
- Traffic flow
- Consistent with the surrounding properties
- Safety for drivers, bikers, and pedestrians

For negative criteria, Mr. Auciello stated there are no detriments.

Mr. Auciello also stated that there would be an improvement in the drainage on the property.

Mr. Schiavetti asked how long the planner has been involved in the project. The planner said he is uncertain when his firm joined the project.

Mr. Schiavetti asked about the pool. He asked if the planner's testimony would change if he had been a part of the pool project and the removal of the driveway. Mr. Auciello stated that the applicant had done buffering and landscaping that improved the property in advance of the application.

Mr. Schiavetti asked about the landscaping plan. He stated that the landscaping is being used as the positive criteria but is not part of the application.

Mr. Herbert said he would work with the Board as far as landscaping that is requested or required.

Mrs. Quigley summarized that it was a step-by-step process that brought us to this point in the Cady's project.

Mr. Schiavetti asked about the curb cuts and why the planner believes the additional curb cuts are needed. Mr. Auciello thinks the curb cuts are a better planning option.

Dr. Laufer stated he is struggling with lot area coverage. Mr. Auciello stated that the lot coverage across the street is in a different zone and the Cady's lot is undersized for the zone. Dr. Laufer asked if the circular driveway was removed would the application comply with the lot area coverage. The engineer stated that they would still be over.

Mr. Ludman asked about how the application developed and asked how it should be addressed from a legal perspective. He asked about the it being perceived as getting around an ordinance.

Mr. Herbert stated that each case rises and falls on their own merits. Mr. Auciello stated that circumstances have changed due to COVID and the Cady's circumstance is unique where the pool was prioritized over the driveway to do the right thing for their family.

Mr. Neczesny opened the meeting to the public for questions of Mr. Auciello.

There were no comments or questions from the public.

Mr. Irene opened the meeting to any comments regarding the application from the public.

There were no comments.

Mr. Herbert summarized the application.

Mr. Neczesny asked for comments from the Board.

Mr. Schiavetti reminded the Board that an application was previously submitted for a pool and driveway that was withdrawn. The pool was installed.

Mrs. Quigley suggested that the agreement with the neighbor should be submitted as part of the application. She is satisfied the main points of the agreement were summarized by Mr. Herbert.

Dr. Laufer is very concerned about lot area coverage – 33% above what is allowed. He thinks it's a horrible precedent.

Mr. Ridgeway agrees with Dr. Laufer and the idea that a precedent is being set.

Mr. Ryan thought the Borough engineer's testimony was compelling regarding storm water management.

Mrs. Quigley is in favor of the application.

Mr. Kinsella agreed that the issue is lot area coverage issue. He is happy with the storm water management system. He fully supports the application.

Mr. Ludman agrees that the discussion should focus on lot coverage and the fact it is 33% is excess of what is permitted. He believes it is too much over the variance.

Mr. Neczesny summarized his position and agrees with the application.

MOTION by Mr. Neczesny and second by Mrs. Quigley to approve the Cady application with stipulations as described by Mr. Irene.

In Favor: Neczesny, Quigley, Ryan, Kinsella

Opposed: Ridgeway, Ludman, Laufer

Mr. Neczesny moved to the administrative items on the agenda.

MOTION by Mr. Neczesny and second by Mr. Ryan to approve the August 19, 2021 meeting minutes.

In favor: Neczesny, Ryan, Ludman, Laufer and Schiavetti.

Opposed: None

The meeting was open for public comment.

There were no comments.

MOTION by Mr. Neczesny to adjourn that was carried by voice vote. The meeting was adjourned at 10:10 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.