

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – September 8, 2022, 7:15 pm**

The meeting was called to order at 7:15 pm by Mr. Lehder, Chairperson, with the reading of the Open Public Meetings Act Statement (below). Mr. Lehder reviewed the authority and responsibilities of the Zoning Board, followed by the pledge to the flag.

Roll Call:

Present: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti, Lehder

Absent: Neczesny, Quigley, Kinsella

Also Present: Mr. Irene, Board Attorney; and Mr. Rizzo of CME, Board Engineer

Mr. Lehder stated he would be recusing himself from the Paolo/Personette matter and requested another Board member to act as Chairman, since the Vice Chairman is not in attendance at the meeting. Dr. Laufer volunteered to act as Chairman.

Mr. Lehder suggested that the administrative items would be handled first.

MOTION by Dr. Laufer and second by Mr. LaBarbera to approve the August 4, 2022 minutes.

In favor: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Opposed: none

MOTION by Mr. Ryan and second by Mr. LaBarbera to approve the resolution for Rice, 45 Maple Avenue, Block 40 Lot 15, Zone R-5.

In favor: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Opposed: none

Mr. Lehder introduced the next agenda item, *Pending resolution for Board Planner – CCH*. Mr. Irene asked if any of the Board members had any comments regarding the draft resolution that was circulated. There were no comments from the Board. Mr. Irene will send the resolution to CCH for review.

Mr. Lehder introduced the next agenda item:

Smith – 15 William Street – Block 45 Lots 24 & 25, Zone R-5 (Brodsky)

Request to construct a second-story addition to the existing single-family home, and to construct a new two-car garage. The following variances have been applied for: minimum side yard setback where 7 feet is required and 6.9 feet is proposed; maximum principal building height where 30 feet is the maximum and 35 feet is existing and proposed; minimum front yard setback where 25 feet is required and 25.5 feet is existing, and 21.5 feet is proposed to the new attached garage; minimum rear yard setback where 30 feet is required, 79 feet is existing and the proposed rear yard setback for the attached garage is 6.5 feet; maximum habitable floor area where 2,200 square feet is the maximum, 1,982 square feet are existing and 2,785 square feet is proposed; and required residential parking where three spaces are required behind the front yard setback line, 3 are existing and 0 are proposed.

Mr. Brodsky is representing the applicant.

Mr. Irene stated that the notice materials for the Smith application were in order. The meeting was opened to the public regarding the notice materials. There were no comments from the public.

Mr. Irene swore in Mr. Rizzo, the Board Engineer.

The following exhibits were marked:

**Exhibit A-1** – Survey prepared by Gregg A. Gaffney, PLS Control Layouts Inc., dated 4/27/2015 with revision date of 7/6/22

**Exhibit A-2** - Additions and Alterations, architectural drawings prepared by Matthew T Cronin, AIA , dated 7/13/21 with revision date of 7/14/22

Mr. Brodsky stated that Steven and Carrie Smith's application encompasses two lots – 13 and 15 William Street, Block 45 Lots 24 and 25 , R5 Zone. The property was purchased by the Smiths in May of 2015.

Mr. Brodsky stated that the two lots were purchased together and 13 William Street is a nonconforming lot. Mr. Brodsky suggested a deed of consolidation for the two lots. Mr. Irene agreed that the Board would want a deed of consolidation if the application is approved.

Mr. Brodsky reviewed placement of the garage on 13 William Street.

Mr. Lehder requested Mr. Brodsky review the variances requested.

Mr. Brodsky stated the following variances were requested:

- minimum front yard setback where 25 feet is required and 25.5 feet is existing, and 21.5 feet is proposed to the new attached garage;
- minimum side yard setback refers to the existing home for the addition where 7 feet is required, and 6.9 feet is proposed;
- combined side yard setback for the addition;
- minimum rear yard setback where 30 feet is required, 79 feet is existing and the proposed rear yard setback for the attached garage is 6.5 feet;
- maximum habitable floor area where 2,200 square feet is the maximum, 1,982 square feet are existing and 2,785 square feet is proposed;
- maximum principal building height where 30 feet is the maximum and 35 feet is existing and proposed; and
- required residential parking where three spaces are required behind the front yard setback line, 3 are existing and 0 are proposed.

Matthew Cronin, AIA, 129 Shrewsbury Avenue, Red Bank, NJ, was sworn in by Mr. Irene. Mr. Cronin stated he has been a licensed architect in New Jersey since 1993, and received his degree in architecture from NJIT. Mr. Lehder accepted Mr. Cronin's credentials.

Mr. Cronin reviewed Exhibit A-1. He began his testimony stating that the combined lots are 9,015 square feet. He went to Sheet A-1 of Exhibit A-2 to review the addition on the house. He reviewed the first floor and second floor plans. Next Mr. Cronin reviewed Sheet A-3 of Exhibit A-2. He moved to Sheet A-2 of Exhibit A-2, spoke of the garage and explained the setback for the garage. He explained that the existing garage and driveway will be removed. New photographs were submitted on three sheets with five photographs marked as **Exhibit A-3**. The pictures depict parking in the front setback.

Parking requirements were then reviewed, and existing conditions discussed.

An arial photograph was submitted dated 9/8/22 and confirmed by Mr. Cronin to depict the current conditions of the property and marked as **Exhibit A-4**.

Mr. Brodsky confirmed that the Smith's approached their neighbors regarding acquiring additional property and the neighbor's were not interested in selling their property.

Dr. Laufer asked about the placement of the garage and asked if the other side of the property was considered for a detached garage. Mr. Cronin stated that the attached garage is becoming more of a standard and a detached garage would be within the lot coverage requirements.

Mr. LaBarbera asked for clarification on the square footage of the home. Mr. Cronin reviewed the square footage of each room of the addition and the garage. There was also conversation regarding trees on the property.

Mr. Ryan asked about the setback of the garage and the proposed setback of the home to the North. Mr. Cronin confirmed the front setback for 11 William Street as 9.8 feet to the house. The Smith home will be a set back of 21 feet to the garage.

Mr. Brodsky asked Mr. Cronin to refer to Exhibit A-4 and discuss the garage. Mr. Cronin confirmed that the garage is the back end of the neighbor's property to the North and wouldn't affect light and open air.

Mr. LaBarbera asked about how the plans were developed. Mr. Cronin discussed how the plans had evolved.

Mr. Lehder asked what variances are triggered by the garage. The garage exacerbates the combined side yard setback. The garage and existing house do not comply to the combined side yard setback: 22.5 feet is proposed, and 25 feet is required.

Mr. Cronin suggested compliance with the R-7.5 Zone.

**Exhibit A-5** was distributed to the Board by Mr. Brodsky comparing the R-5 Zone building requirements to R-7.5 Zone building requirements for the Smith project.

Mr. Cronin reviewed the requirements for the R-7.5 Zone.

Mr. Irene requested the height of the garage. Mr. Cronin stated the garage height as 16 feet.

Mr. Rizzo asked about the space to the side and rear of the existing garage. Mr. Cronin stated there is fencing and no plans to remove existing vegetation or add anything new. They will put down grass where the driveway is removed.

Mr. Cronin stated that materials will be used that match the current siding.

Mr. Rizzo asked about storm water management. Mr. Cronin stated that if the project is approved, they will engage a civil engineer. Mr. Cronin stated a grading and drainage plan will be included for resolution compliance, if required, but he doesn't think it will be needed. Mr. Cronin stated they will apply to Freehold Soil Conservation District.

Mr. Rizzo asked if Mr. Cronin will testify of compliance with the technical requirements in Mr. Rizzo's review letter. Mr. Cronin stated the applicant will comply.

Mr. Lehder stated that the application should be considered as a single lot. He stated that a detached two-car garage located at the rear of the property that would be fully compliant. Mr. Lehder asked for the reasoning for placing the garage at the front of the home.

Dr. Laufer also asked for more information regarding the garage.

Mr. Brodsky called his next witness, Mr. Steven F. Smith.

Mr. Steven F. Smith, 15 William Street, was sworn in by Mr. Irene. Mr. Smith provided his background and the fact his family has lived in town for 7.5 years. He spoke to the shape of his lot and placement of the garage. He mentioned other properties with attached garages at the front of the home on Hendrickson Place. He also reviewed his home's existing floor plan, use of the rooms, current garage space, and planned use of space for their proposed addition. He also discussed a safety concern with a rear garage and increased safety with having the garage at the front of the home.

Mr. Lehder asked about the width of the existing driveway. Mr. Smith confirmed that the current driveway is fifteen feet wide.

There was discussion regarding the lot at 13 William Street.

Mr. Brodsky requested to have a brief discussion with his client. The Board remained on the dais.

Mr. Brodsky asked to carry the Smith application to the next available meeting.

The meeting was opened to the public. There were no comments from the public.

Mr. Lehder asked what is on the agenda for October 6, 2022 meeting. The Board secretary stated that there were two matters on the agenda for October.

MOTION by Mr. Lehder and second by Mr. LaBarbera to carry the Smith application to the October 6, 2022 meeting without the necessity to re-notice and a stipulation of extending time to act.

In favor:            Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti, Lehder

Opposed: none

Mr. Lehder recused himself from the Paolo application and left the meeting at 8:43 pm.

There was a break in the meeting from 8:43 pm until 8:50 pm when roll call was taken.

Roll call:

Present: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Absent: Neczesny, Quigley, Kinsella, Lehder

Also Present: Mr. Irene, Board Attorney; and Mr. Rizzo of CME, Board Engineer

MOTION by Mr. Ryan and second by Mr. LaBarbera to appoint Dr. Laufer as Chairman for the remainder of the meeting.

In favor: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Opposed: none

Recused: Lehder

Dr. Laufer introduced the next agenda item:

Paolo/Personette – 78 Pine Cove Road, Block 78 Lot 13.7, Zone R-30 (Krimko)

Request to erect additions to the existing, single-family home and relocation of an inground pool. Location of pool in front yard, whereas accessory structures are not permitted in a front yard. Habitable floor area of 6,887 square feet, whereas a maximum of 5,180 square feet is permitted.

Mr. Irene stated that the notice materials for the Paolo/Personette application were in order. The meeting was opened to the public regarding the notice materials. There were no comments from the public.

Mr. Irene confirmed there was a quorum and only bulk variances were requested on the application.

Ms. Krimko introduced herself as the attorney for the Paolo/Personette application. She summarized the application as moving the bedrooms to the second floor with associated modifications, and moving the pool on the property closer to the river side of the property. She stated that the setbacks for the pool comply, but the placement of the pool is considered the front yard, requiring a variance.

Ms. Krimko stated that Jason Fichter is the engineer and planner for the application and Anthony Condouris is the architect.

Mr. Irene swore in Mr. Rizzo, Board Engineer.

Mr. Irene clarified that the Zoning Officer called out variances within his denial letter that were not appealed by the applicant. The applicant chose to ask for the variances from the Zoning Board.

MOTION by Mr. LaBarbera and second by Mr. Ryan to approve requested waivers for the Paolo/Personette application for submission of applications to the Monmouth County Planning Board, Freehold Soil Conservation District, and Monmouth County Department of Health.

In favor: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Opposed: none

Recused: Lehder

Ms. Krimko requested the following Exhibits be marked:

**Exhibit A-1** – Topographic Survey by Insite Surveying, dated 10/20/21

**Exhibit A-2** - Plot Plan by Insite Engineering, dated 7/12/22 (4 sheets)

**Exhibit A-3** - Architectural plans prepared by Anthony M. Condouris, Architect, revised through 7/12/22 (5 sheets)

**Exhibit A-4** – Survey by Morgan Engineering dated 9/3/20

**Exhibit A-5** – Color rendered plot plan, title *Site Layout*, dated 9/8/22

**Exhibit A-6** - Ariel exhibit, dated 9/8/22, near map dated 7/2022

**Exhibit A-7** - Photo packet of three photos, dated 9/8/22

Mr. Jason Fichter, Insite Engineering, 1955 Route 35, Wall, NJ was sworn in by Mr. Irene. Mr. Fichter has BS in civil engineering and licensed as planner and engineer since 2002. Mr. Fichter's credentials were accepted by the Board.

Mr. Fichter reviewed current state of the applicant's property. He explained changes in regulation to base flood elevations and described that this property is not in a flood elevation. He explained the improvements that are planned for the existing property.

Mr. Fichter stated that storm water will drain to the Navesink River, and impervious coverage will be reduced by 2,263 square feet. Mr. Fichter referenced Exhibit A-6 to explain the side yard set back.

Mr. Fichter stated that 5-6 bedrooms requires three parking spaces. All parking will be off street and not in the front set back.

Ms. Krimko mentioned Exhibit A-7 and reviewed the pictures. Specifically, she referenced the evergreen trees that offer a buffer to the neighboring property. Mr. Fichter stated that the set back for the pool is greater than the required 25 feet. Ms. Krimko also confirmed with Mr. Fichter that there is a wall and fence between where the pool will be located and the neighboring property.

Mr. LaBarbera asked about trees that will be impacted with the installation of the new pool. Mr. Fichter stated that one ornamental tree will be removed.

Mr. Fichter stated that there will be no drainage issue or damage to the neighboring property with the installation of the pool, as there is at least twenty-five feet between the areas that will be disturbed with the installation of the pool.

Ms. Krimko asked if there were any questions regarding engineering. Mr. Ryan asked whether the basement is considered habitable floor area. Mr. Fichter stated the lowest floor is a cellar, not a basement, and will not count toward habitable floor area.

Dr. Laufer asked why the pool was moved. Ms. Krimko stated the architect will address this during his testimony.

Mr. Rizzo asked about the cellar. Mr. Fichter confirmed there won't be a structural issue with the removal of the dirt.

Mr. Rizzo asked if DEP would be involved. Mr. Fichter said that DEP and SDC will be involved.

Mr. Schiavetti asked about the Riparian Buffer and Mr. Fichter's familiarity of the ordinance. Mr. Schiavetti stated that there would be a disturbance within 300' of the Navesink River and asked if a variance was needed. Mr. Irene asked that Mr. Fichter look at the ordinance during Mr. Condouris' testimony.

Ms. Krimko introduced Mr. Condouris as the applicant's architect.

Mr. Condouris, 20 Bingham Avenue, Rumson was sworn in by Mr. Irene. Mr. Condouris has been a licensed architect in NJ since 1996. His credentials were accepted by the Board.

Mr. Condouris gave background of the existing home. There are currently five bedrooms located in various areas of the home, and the new architectural plan has six bedrooms. The pool is located at the front of the main body of the home without a traditional entrance way.

Mr. Condouris reviewed the architectural plans as depicted in Exhibit A-3. All bedrooms in the new plans will be on the second floor. The front and rear elevations were reviewed.

There was discussion regarding the cellar/basement and calculation regarding habitable floor area. Also, there was discussion regarding the height of the building which is compliant with the building requirements for the zone.

Dr. Laufer asked if Mr. Rizzo is comfortable with the elevations as presented and with the calculation of the habitable floor area. Mr. Rizzo confirmed he is.

Mr. Fichter then testified about the ordinance for the riparian zone.

With regards to the riparian zone ordinance, Ms. Krimko stated that the DEP regulations preempt any local regulations. Mr. Irene stated that the Zoning Board has no authority to ignore the ordinance and suggests the Board consider a variance.

Ms. Krimko stated the applicant would like to ask for a variance with the intent that the applicant will comply with all DEP regulations.

Mr. LaBarbera asked for review of the calculation that led to the classification of the lowest level as a cellar. Mr. Fichter explained the calculation.

Mr. Fichter explained up zoning as defined by the Borough ordinance. He explained that applying the up zoning provision, using the R-40 Zone, would allow for the habitable floor area to comply. Mr. Fichter reviewed the building requirements for the R-40 Zone and how the project conforms.

Mr. Fichter explained the reasons why the variances should be considered by the Board. Mr. Fichter spoke of the up zoning provision and lot width. He stated that the lot is on a cul-de-sac which changes the lot width for the property. He expressed lot width as a hardship because of the irregularity of the shape of the lot. Mr. Fichter provided information to justify placement of the pool. There was discussion regarding the front of the property as defined by ordinance.

Dr. Laufer opened the meeting to the public.

John C. Santos, Jr., 92 Pine Cove Road, was sworn in by Mr. Irene.

Mr. Santos explained that the location of his property based on the Plot Plan. The Santos' lot is 13.06. Mr. Santos opposes the application. He stated that the notice was not received in a timely fashion.

Mr. Irene stated that at the beginning of the hearing, the public was asked about notice, and Mr. Santos did not respond. Mr. Santos acknowledged that he was in the room and didn't realize that was when he should respond regarding his notice.

Mr. Irene mentioned that he had checked with the Board secretary regarding the tax lot numbers listed versus what is on the tax map. The tax assessor confirmed for the Board secretary that all the addresses provided were within 200' of applicant's property. The applicant is required by statute to mail notice using the list provided by the tax assessor no less than 10 days prior to the hearing. All the certified mailings were sent to all those listed on the 200' list provided by the tax assessor.

Mr. Irene believed the notice to be timely and according to statute.

Mr. Santos continued that he wants to better understand the environmental impacts of the project, in particular the pool. He is concerned about the vegetation and the water table. He also wants to better understand the need for the pool to be moved, exacerbating an existing non-confirming variance. He is concerned about the quiet enjoyment of his property. He would prefer different placement of the pool.

Mr. Santos also mentioned an easement of the neighborhood's HOA that borders the applicant's property.

Ms. Krimko requested to cross-examine Mr. Santos. She asked about placement of the pool. Ms. Krimko stated that Mr. Santos would not see the pool from his front yard.

Mr. Santos stated that he would prefer to defer the hearing and would like to have his own experts and counsel.

Ms. Krimko asked about the new location of pool and how it will impact Mr. Santos. Mr. Santos stated that the placement of the new pool would affect his quiet enjoyment of his property.

Mr. Santos stated that he needs 30 days to hire experts and an attorney. Mr. Santos does not object to the addition to the existing home.



Ms. Krimko requested that the Board vote on the addition to the home and bifurcate the pool. She stated that they will concede the adjournment of the pool.

Mr. Irene mentioned notice to the homeowner's association and Ms. Krimko stated that notice goes to the homeowners.

Dr. Laufer asked Mr. Rizzo if there are environmental impacts with the installation of the proposed pool. Mr. Rizzo stated that there could be issues with vegetation and drainage. He stated that based on the information provided, it appears that drainage will flow to the North towards the Navesink River and doesn't foresee issues.

The meeting was opened to the public. There were no comments from the public.

Ms. Krimko provided her closing remarks.

Dr. Laufer asked the Board to deliberate.

The Board discussed habitable floor area, and the building requirements of the zone. There was also discussion regarding basements versus cellar space. There was also conversation regarding notice to the homeowners.

The Board then discussed bifurcating the application to review the pool portion of the application separately.

MOTION by Mr. Ryan and second by Mr. LaBarbera to bifurcate the Paolo/Personette application to adjourn the pool and carry the pool application to another meeting date with counsel extending time to act.

In favor: Ridgeway, Ryan, LaBarbera, Laufer, Schiavetti

Opposed: none

Recused: Lehder

Mr. Irene stated that the bifurcated Paolo/Personette application for the pool will be scheduled for the November 3, 2022 meeting without the necessity to re-notice.

MOTION by Mr. LaBarbera and second by Mr. Ridgeway to approve the Paolo application for the addition to the home, to the extent the pool will be removed from the application.

In favor: Ridgeway, Ryan, LaBarbera, Laufer

Opposed: Schiavetti

Recused: Lehder

Dr. Laufer made a MOTION to close the meeting that was carried by voice vote at 11:08 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 was sent to and published in the Asbury Park Press on January 19, 2022, and the Two River Times on January 20, 2022. That Notice was also posted on the bulletin board in Borough Hall, and has remained continuously posted there as required by the Statute. 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.**