

FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – October 6, 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: Quigley, Ridgeway, Ryan, LaBarbera, Laufer, Kinsella, Lehder

Absent: Neczesny, Schiavetti

Also Present: Mr. Irene, Board Attorney; Mr. Rizzo of CME, Board Engineer; Elena Gable of Heyer Gruel & Associates, Board planner; and Councilwoman Koch

Mr. Lehder introduced the first agenda item:

Smith – 15 William Street – Block 45 Lots 24 & 25, Zone R-5 (carried from Sept 9, 2022)

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. Irene stated that the applicant had requested to be carried to the December 1, 2022 meeting without the necessity to re-notice and with an extension of time.

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

MOTION by Mr. Lehder and second by Mr. Ryan to carry the application to the December 1, 2022 meeting without the necessity to re-notice and with an extension of time granted by the applicant.

In favor: Quigley, Ridgeway, Ryan, LaBarbera, Laufer, Kinsella, Lehder

Opposed: none

Mr. Lehder introduced the next application:

Owens/Corej – 45 Second Street, Block 13 Lot 35, Zone R-5

Request to construct a second-story addition at the rear of the existing single-family residence. Minimum required single side yard setback for principal structure is 7 feet, where 5.2 feet is existing and proposed. Minimum required combined side yard setback is 16 feet, where 13 feet 7 inches is existing and proposed. Maximum floor area is 2,200 square feet, where 2,340 square feet is existing and 2,498 square feet is proposed.

Mr. Irene stated that he did not see any issues with the notice for the Owens/Corej application. He asked if there were interested parties that wished to comment on the notice. There were no interested parties.

Mr. Brodsky was introduced as the attorney for the application.

Jordan Rizzo, the Board engineer, was sworn in by Mr. Irene.

Earl Jackson, AIA, of 413 Spire Avenue, Allenhurst, NJ was sworn in by Mr. Irene as the applicant's architect. Mr. Jackson cited his credentials as a licensed architect in New Jersey and Florida. He has been a licensed architect for 13 years and has testified before many Boards in New Jersey. Mr. Jackson has never had his credentials rejected. The Board accepted Mr. Jackson's credentials.

Mr. Brodsky stated that the applicant is requesting variance relief to construct an addition in the rear of the home and covered porch in the front of the home. He reviewed the requested variance relief for habitable floor area and setbacks.

The following Exhibits were marked by Mr. Irene:

Exhibit A-1 – Survey prepared by Richard E. Stockton and Associates, Inc. dated 11/1/21, (1 page).

Exhibit A-2 – Architectural Plans prepared by Earl Jackson Architecture Workshop LLC, revision dated 8/8/22, (10 pages).

Exhibit A-3 – Zoning diagrams, prepared by Earl Jackson Architecture Workshop LLC, dated 8/8/22, (3 pages).

Mr. Jackson reviewed **Exhibit A-2** and stated that the garage was converted to living space. He spoke of changing the pitch of the roof, the set back of the front porch to the property line and mentioned putting in a staircase to the attic. He also explained his calculation of the habitable floor area in the attic space.

Mr. Jackson referred to **Exhibit A-3** to explain his calculation of habitable floor area. There was discussion about the Board's measurement of habitable floor area. A new calculation resulted that impacted the floor area ratio (FAR). The new measurement increased the FAR above the maximum allowed.

There was discussion regarding lot coverage and removal of an existing piece of the patio in the rear.

Mr. Irene reminded that if the application needed to be amended to request a variance for the floor area ratio, a new submission would be required, and additional fees would apply.

Mr. LaBarbera requested that the figures provided be rounded to the hundredth decimal.

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

Mr. Brodsky requested the application be carried to the December 1, 2022 meeting.

MOTION by Mr. Lehder and second by Ms. Quigley to carry the Owens/Corej application to the December 1, 2022 meeting without the necessity to re-notice, unless the application is amended with a request for 'D' variance relief.

In favor: Quigley, Ridgeway, Ryan, LaBarbera, Laufer, Kinsella, Lehder

Opposed: none

Mr. Lehder introduced the next application:

Peralta – 88 Buena Vista Avenue, Block 64 Lot 6.01, Zone R-10A (carried from Aug 4, 2022)

Request to finish existing room above garage. Applicant seeks variance relief for Habitable Floor Area where existing is 3216 square feet, proposed is 3664 square feet, and maximum allowed is 3220 square feet.

Mr. Kinsella recused himself from the Peralta application. At 8:10 pm, Mr. Kinsella and Mr. Rizzo, Board engineer, left the meeting.

Mr. Lehder requested a roll call at 8:11 pm.

Roll Call:

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

Absent: Neczesny, Schiavetti, Kinsella

Ms. Gable, Board planner, was sworn in by Mr. Irene.

Adam Peralta and Kelly Peralta, both of 88 Buena Vista Avenue, were sworn in by Mr. Irene.

Mr. Irene stated that the notice materials were in order. He opened the meeting to the public regarding the notice materials. There were no comments from the public.

Ms. Gable reviewed the waivers that were requested by the applicant:

- Application to Monmouth County Planning Board
- Application to Freehold Soil Conservation District
- Application to the Monmouth County Department of Health

MOTION by Mr. Lehder and second by Mr. Ryan to approve the requested waivers.

In Favor: Quigley, Ridgeway, Ryan, LaBarbera, Laufer, Lehder

Opposed: none

Mr. Peralta provided testimony regarding the use of the space over the garage. He requested the Board's permission to exceed the maximum for habitable floor area.

There was discussion regarding the calculation of habitable floor area. Ms. Gable stated she had confirmed her calculation with the Zoning Officer.

Ms. Quigley stated that the room was being built within the existing structure.

There was discussion regarding the third story and staircase access. The definition of a story was reviewed, as well as habitable attic. There was discussion about the staircase to the attic that is shown as a drop-down staircase in the architecture plans.

Mr. Lehder stated that the building plans don't match what is presented and new plans would be a requirement of variance approval. There was discussion regarding hardship and positive C criteria for granting the variance relief.

There was discussion regarding the Zoning Officer's denial letter dated 10.27.20 and suspected inaccuracy in the calculation.

There was continued conversation regarding habitable attic.

Mr. Lehder stated that the habitable floor area calculation would need to be measured and documented and asked that this be a condition within the resolution.

There was discussion regarding the Flexible C and granting under a public health crisis due to COVID.

There was continued conversation regarding establishing a baseline for measurement of the habitable floor area.

Mr. Lehder asked if the applicant had completed testimony and wished to proceed with a decision from the Board. Mr. Peralta confirmed testimony was complete and requested a decision from the Board regarding his application.

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

The Board deliberated regarding the application.

MOTION by Mr. Lehder and second by Dr. Laufer determining that variance relief for excess habitable floor area was not required to allow existing unfinished space above the garage to be finished, insofar as this space would already be included within the total existing habitable floor area calculation.

In Favor: Quigley, Ridgeway, Ryan, LaBarbera, Laufer, Lehder

Opposed: none

Mr. Ryan reviewed the administrative items:

Mr. Ryan asked if there were any comments regarding the September 8, 2022 meeting minutes. There were no comments.

MOTION by Mr. Ridgeway and second by Mr. La Barbera to approve the September 8, 2022 meeting minutes.

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

Opposed: none

Mr. Irene spoke of the resolution for the contract for the Planner. Mr. Ryan asked if there were any comments from the board. There were none.

MOTION by Mr. Lehder and second by Mr. La Barbera to approve the contract for Clarke Caton Hintz as the Zoning Board Planner.

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

Opposed: none

Abstained: Quigley

Mr. Ryan introduced the next agenda item regarding the Paolo/Personette resolution. He asked if there were comments from the Board. There were no comments from the Board.

MOTION by Mr. Ryan and second by Mr. LaBarbera for approval of resolution for Paolo/Personette, 78 Pine Cove Road, B78 Lot 13.7, Zone R-30 granting variance relief for expansion of the existing single-family home.

In favor: Ridgeway, Ryan, LaBarbera, Laufer,

Opposed: none

Abstained: Lehder

There was discussion regarding the 200' lists provided by the tax assessor.

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

Mr. Lehder made a MOTION to close the meeting that was carried by voice vote at 10:42 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.