

FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – February 2, 2023
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 role and responsibilities of the Zoning Board of Adjustment.

Roll Call:

Present: Necsesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Schiavetti, Lehder

Absent: Kinsella

Also Present: Mr. Kovats, Board Attorney; Mr. Rizzo of CME, Board Engineer; and Councilman LaBarbera.

Mr. Lehder led a salute to the flag, reviewed the agenda and moved up the Executive Session to the first item to be addressed by the Board.

MOTION by Mr. Kovats and second by Dr. Laufer to move into Executive Session to discuss the pending Santos v. Paolo/Personette and the Fair Haven Zoning Board litigation with Mr. Irene, Esq., Special Counsel for the litigation.

In Favor:

Opposed: D'Angelo, Ridgeway, Ryan, Forte, Laufer, Schiavetti

Recused: Necsesny, Lehder

The Board moved to Executive Session at 7:21 pm and returned to the regular meeting at 7:55 pm.

Roll call:

Present: Necsesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Schiavetti, Lehder

Absent: Kinsella

Mr. Lehder introduced the application from New Business:

Dugan – 932 River Road, B62 L1, Zone R-10A (Anderson)

Request to demolish existing single-family home and construct a new single-family home. The detached garage will remain unchanged. Variance relief is requested for front setback and front (side) setback.

Mr. Ridgeway recused himself at 7:56 pm and left the dais.

Mr. Kovats swore in the professionals associated with the Dugan application:

Daniel Lynch, RA, BLDG Architecture LLC, 617 Union Avenue, Building 3, Suite 14, Brielle, NJ

Taplynn Dugan, applicant, 932 River Road, Fair Haven, NJ

Joseph Kociuba, PE, PP, KBA Engineering Services, LLC, 2517 Route 35, Suite 203, Manasquan, NJ

The following Exhibits were marked by Mr. Kovats:

- Exhibit A-1** Application to Zoning Board of Adjustment;
- Exhibit A-2** Denial Letter from Nicholas J. Poruchynsky;
- Exhibit A-3** Revised Denial Letter from Nicholas J. Poruchynsky;
- Exhibit A-4** Narrative of Development with attachments;
- Exhibit A-5** Survey prepared by Insite Surveying dated November 12, 2021;
- Exhibit A-6** Architectural Plans prepared by B.L.D.G. Architecture, LLC, dated August 29, 2022 (with revisions to 10/22/2022);
- Exhibit A-7** Packet of Photos of Site;
- Exhibit A-8** Tax Status;
- Exhibit A-9** Statement of Variances;
- Exhibit A-10** Letter from Monmouth County Planning Board confirming exemption August 31, 2022;
- Exhibit A-11** Application Checklist;
- Exhibit A-12** Garage Plans (Exhibit A-1, May 1, 1986);
- Exhibit A-13** JCP&L Easement;
- Exhibit A-14** Sheet A1.3 Roof/Attic Level Floor Plan prepared by B.L.D.G. Architecture, LLC, dated August 29, 2022 and last revised to December 21, 2022;
- Exhibit A-15** Boundary Topographic Survey prepared by American Layout and Land Surveying and dated January 10, 2023;
- Exhibit A-16** Three (3) Color 3D Renderings prepared by B.L.D.G. Architecture, LLC;
- Exhibit A-17** Alternate Elevations/Roofline prepared by B.L.D.G. Architecture, LLC and dated February 2, 2023;
- Exhibit A-18** Photo board with Photos of Existing Homes and Neighbors Homes (9 photos marked as one exhibit);
- Exhibit A-19** Notice of Appeal dated January 4, 2023;
- Exhibit A-20** Tax Map;
- Exhibit A-21** Aerial Photo Showing Riparian Buffer Line prepared by KBA Engineering Services, LLC;
- Exhibit A-22** Photo board Showing Peer Homes with Habitable Attics (app. 20 Photos);

- Exhibit A-23** Colorized GIS Map with Dimensioned Setbacks prepared by KBA Engineering Services, LLC, January 30, 2023;
- Exhibit A-24** Grading Plan prepared by KBA Engineering Services, LLC and dated January 25, 2023;
- Exhibit A-25** Photo of Interior of Garage;
- Exhibit A-26** Photo of Unpaved River Road Right-of-Way
- Exhibit PB -1** First Engineering Review Letter from CME Associates dated December 15, 2022;

John B. Anderson, Esq. introduced himself as the applicant's attorney. Mr. Anderson gave opening remarks and reviewed the application, history of the property, variances requested based on the demolition of the existing home and construction of a new home. He reviewed the definition of a third story as it relates to the plans submitted.

Mr. Lehder asked whether there was an appeal issue associated with the application. If so, what is the jurisdiction.

Mr. Lehder asked for a summary of the variances requested. Mr. Anderson stated that the following variances are requested:

- Front setback on River Road
- Front (side) setback on Browns Lane
- Riparian Buffer – 300' from the Riparian Zone

Mr. Kovats summarized the waivers requested by the applicant, to which the Board engineer took no exception which included:

- The Freehold Soil Conservation District application
- A grading and drainage plan
- The floor plans of the existing home

The Board approved the waivers requested by voice vote.

The applicant's architect, Daniel Lynch, was introduced. He gave his qualifications and was accepted by the Board.

Exhibit A6, Exhibit A14 and Exhibit A-17 were confirmed to have been prepared by or prepared under Mr. Lynch's supervision.

Mr. Anderson began the discussion with the stairs to the attic. Mr. Lynch stated that 303.4 square feet of the attic space will be habitable. Mr. Lynch reviewed the plans and stated why the stairs were included for the attic.

Mr. Lehder asked why there is resistance to calling the attic a third story. The proposed building height was confirmed by Mr. Lynch as 30.99 feet.

Mr. Anderson referred the Board to **Exhibit A14**. He stated that the wall plates are all 12 inches or less. Mr. Kovats stated that a third story variance is a 'C' variance.

Mr. Lynch presented the existing conditions for the house and garage. The garage has a height of 22.4 feet which differs from the variance by the Zoning Board of 18 feet. Mr. Rizzo said the existing house has a height of approximately 24 feet.

Mr. Lynch said the existing garage will continue to be used for parking with driveway access on Browns Lane. The house will be moving forward to accommodate the cars using the existing garage.

The depth of the porch was confirmed by Mr. Lynch at 8 feet. Mr. Lynch stated that the home is aligned with Browns Lane.

Mr. Anderson introduced Mr. Kociuba, Planner and Engineer for the applicant. Mr. Kociuba gave his credentials. Mr. Kociuba's credentials were accepted by the Board.

Mr. Kocubia handed out **Exhibit A23** detailing the setbacks using a colorized GIS map. Included were setbacks of neighbors and the dedicated ROW lines. There was discussion regarding the front yard setback of the neighbors on River Road and a comparison to the setback of the proposed home.

Mr. Lynch confirmed that there is compliance for lot coverage, height, and floor area ratio. Mr. Lynch confirmed there is not adjacent property to acquire. Mr. Lynch used **Exhibit A18** to show homes with similar roof lines. Mr. Lynch stated that the proposed home is harmonious with other homes in the neighborhood.

Mr. Lehder asked why the owner is keeping the existing garage. Mr. Rizzo stated that the garage should remain only as storage and should be stipulated as such in any resolution.

Mr. Anderson presented **Exhibit A25**, photos of the interior of the garage.

Mr. Kocubia stated that the following exhibits were prepared by him or under his supervision: **Exhibit A21**, **Exhibit A23**, and **Exhibit A24**. He explained the hardship associated with the lot for the proposed home. He also spoke of the riparian zone. The applicant will be required to apply for State agency approval. Lastly, Mr. Kocubia spoke of the attic.

Mr. Anderson noted a home across the street with multiple gables similar to the applicant's proposed home.

Mr. Kocubia reviewed the Zoning table and identified the variance plan stating the variances needed for setbacks. He also reviewed the engineering comments in Mr. Rizzo's letter (**Exhibit PB-1**). Ms. Dugan stated she will stipulate to the condition for drywell installation as discussed.

Mr. Lehder mentioned the grading difference in the Topographical Survey (**Exhibit A15**) from the front to the rear of the property.

There was discussion regarding outside agency approvals needed and Mr. Kovats said the application approval will be contingent on outside agency approvals including NJ DEP, and Freehold Soli Conservation District.

The Board discussed the site triangle at the corner of Browns Lane. **Exhibit A26** was marked showing a picture of the corner.

Mr. Kocubia confirmed that the applicant will provide underground utilities to the new home.

Mr. Rizzo reviewed the variances needed.

Mr. Schiavetti asked about fences in the rear of the yard and utilization of the rear yard. Ms. Dugan explained that the fences were installed by the prior owner. She stated she would be willing to remove the fences. Mr. Lehder asked about moving the house back 6.5 feet and the impact. Ms. Dugan testified that visually the house will be close to the garage. There was discussion regarding the width of the driveway.

The meeting was opened to the public.

Lori Lonczak, corner of River Road and Browns Lane, Fair Haven, NJ – testified in support of the application.

Lauren Hendricks, 918 River Road, Fair Haven, NJ – testified in support of the application.

The meeting was closed to the public.

At 10:25 the applicant's attorney requested a recess to confer with their client.

Mr. Lehder directed the Board to the administrative items on the agenda while the applicant was in conference.

Mr. Lehder introduced the following agenda item: *Fence Ordinance –response to the Governing Body*.

Mr. Lehder mentioned memos from Michael Irene, previous Zoning Board attorney, and Nick Porchynsky, Zoning Officer, regarding fence ordinances, (attached). The Board reviewed the memos. There was discussion regarding fences versus vegetation. The following was mentioned:

- Improving communication of policies with the residents,
- Different process to speak with the Zoning Board about fences, and
- Compliance with ordinances

Councilman LaBarbera, Council liaison to the Zoning Board, weighed in on the discussion regarding the fence ordinance and stated three themes that are consistent with the direction of the Governing Body:

- Communication and education
- Validation of the current ordinance, including validation of consistency of its application
- Refinement of process – current discussions taking place regarding digital submissions
- Enhance communication between Fair Haven and Rumson

Councilman LaBarbera stated there was consistency to what is being articulated by the Zoning Board and goals of the Governing Body.

Mr. Anderson came back to the meeting with his client at 10:45 pm. He stated that the applicant will comply with the ordinance for the front yard setback. The side yard setback will remain unchanged. He gave his closing statement.

The Board deliberated regarding the application.

MOTION by Mr. Lehder and second by Mr. Neczesny to approve the Dugan application based on the design of the home as presented and conditions discussed including the change to the front yard setback, and installation of drywells with all roof leaders leading to drywells.

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer, Lehder

Opposed: Shiavetti

Recused: Ridgeway

Mr. Neczesny reviewed the first administrative item: *Approval of Minutes from January 12, 2022 meeting*. The minutes will be distributed prior to the March meeting. No vote was taken on this item.

Mr. Neczesny reviewed the next item: *Approval of resolution for Fantoni, 43 Woodland Avenue, Block 63 Lot 4, Zone R-10A*.

MOTION by Mr. Neczesny and second by Mr. Forte to approve the resolution for variance relief for Fantoni, 43 Woodland Avenue, Block 63 Lot 4, Zone R-10A.

In favor: Neczesny, Ryan, Laufer, Lehder

Opposed: none

MOTION by Mr. Neczesny and second Mr. Lehder to approve the contract for Michael Irene, Esq. as Special Counsel attorney.

In Favor: Neczesny, D'Angelo, Ryan, Forte, Laufer, Schiavetti, Lehder

Opposed: none

There was discussion regarding the 2021 Annual Report. This item was tabled to the March meeting.

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

Mr. Lehder made a MOTION to close the meeting that was carried by voice vote at 11:17 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 and the Star Ledger on January 20, 2023. 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.