

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – January 12, 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) and salute to the flag.

Roll Call:

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

Absent: Kinsella

Also Present: Mr. Rizzo of CME, Board Engineer; Councilman LaBarbera; Mayor Halpern

Mr. Lehder congratulated Mr. Forte and Ms. D'Angelo for their appointment to the Zoning Board, and Mr. Schiavetti for his re-appointment to the Zoning Board.

Board reorganization:

MOTION by Mr. Ryan and second by Mr. Neczesny to appoint Mr. Lehder as Chairman.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer

Opposed: none

Abstain: Lehder

MOTION by Dr. Laufer and second by Mr. Schiavetti to appoint Mr. Neczesny as Vice Chairman.

In Favor: D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder

Opposed: none

Abstain: Neczesny

MOTION by Mr. Neczesny and second by Mr. Lehder to appoint Sandi Papa as Zoning Board Secretary for 2023.

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

Opposed: none

MOTION by Mr. Lehder and second by Mr. Neczesny to appoint Doug Kovats, Esq. of Kenney, Gross, Kovats & Parton, as Board Attorney for 2023.

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

Opposed: none

MOTION by Mr. Lehder and second by Mr. Neczesny to appoint Jordan Rizzo of CME as Board Engineer for 2023.

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

Opposed: none

MOTION by Mr. Lehder and second by Mr. Neczesny to appoint Clarke, Caton and Hintz (CCH) as Board Planner for 2023.

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

Opposed: none

MOTION by Mr. Lehder and second by Mr. Neczesny to approve the following meeting dates for 2023 and reorganization meeting in January of 2024:

February 2, 2023  
March 2, 2023  
April 6, 2023  
May 4, 2023  
June 1, 2023  
July 6, 2023  
August 3, 2023  
September 7, 2023  
October 5, 2023  
November 2, 2023  
December 7, 2023  
January 11, 2024 (reorganization/first meeting 2024)

All meetings commence at 7:15 pm at Borough Hall.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: none

MOTION by Mr. Lehder and second by Mr. Neczesny to adopt as official publications, the Asbury Park Press, the Star Ledger, and the Two River Times.

In Favor: Neczesny, D'Angelo, Ridgeway, Ryan, Forte, Laufer, Lehder  
Opposed: none

Mr. Lehder introduced the following application from Old Business:

Fantoni – 43 Woodland Drive, Block 63 Lot 4, Zone R-10A (Brodsky)

Request to erect a detached garage and convert the existing garage to habitable living space, requesting relief as follows: maximum habitable floor area, 3,220 square feet permitted, 3,209 square feet existing and 3,531 square feet proposed.

Mr. Brodsky was introduced as the applicant's attorney. The application was carried from the December 1, 2022 meeting.

Mr. Kovats swore in the following witnesses:

Mr. Al Shissias, Architect of Shissias Design + Development, 21 First Street, Rumson, NJ.  
Dante Fantoni, homeowner, 43 Woodland Drive, Fair Haven, NJ.

The following exhibits were introduced:

**Exhibit A5** – Site Plans prepared by Shissias Design + Development, titled *Fantoni Residence*, dated 12/22/22, (8 pages – A1-A8).

**Exhibit A6** - Site Plans prepared by Shissias Design + Development, titled *Fantoni Residence*, dated 12/22/22, (8 pages), as shared on the easel at the meeting on 1/12/23.

**Exhibit A7** – Photos (3)

Mr. Lehder confirmed there are six Board members available to vote on the application. There are two Board members that are new to the Board that will not be voting on the application.

Mr. Brodsky summarized the application and requested a variance for maximum floor area.

Mr. Shissias, the applicant's architect provided testimony to explain the initial condition of the home and explained the two phases of the project.

Mr. Shissias stated the reason the applicant wanted to convert the garage to living space. Mr. Shissias reviewed **Exhibit A-5** and reviewed the initial renovation of Phase 1 including the second story addition and renovation, the covered porch, and the mudroom entrance.

Mr. Shissias then reviewed Phase 2 of the project. He said that the project consisted of conversion of the two-car garage into a family room and construction of a new detached garage. Mr. Shissias shared elevations of the home.

There was discussion regarding the lot coverage of the project and the height of the home which Mr. Shissias said is 25 feet. Mr. Shissias stated that the basement ceilings are 7 feet in height and testified that half the basement will be finished and the other half will also be used for storage and utilities.

Photos were shared with the Board depicting the parking, (**Exhibit A7**).

There was discussion as to why the applicant began the project without variance relief for the garage. Mr. Brodsky stated that the applicant wished to move forward with the parts of the project that did need variance relief. Mr. Shissias stated that they probably saved 6 months by moving forward with Phase 1 of the project. Mr. Fantoni provided testimony regarding the project.

There was discussion regarding placement of the garage and moving the detached garage back 10 feet.

Mr. Brodsky summarized the application and provided closing arguments.

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 Mr. Neczesny to approve the waivers for the Fantoni application as proposed in the engineer's letter, and to approve the Fantoni application with the stipulation that the garage be moved back not less than 10 feet from where it is in the proposed plans.

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

Opposed: Schiavetti

Mr. Lehder introduced the next application:

Chiarella/Taylor – 16 Church Street, Block 26 Lot 16, Zone R-5 (Von Arx)

Request to renovate one of two existing residential units, adding a second story and porch to principal building. Relief requested includes continuation of existing two dwelling use of property.

Brooks Von Arx was introduced as the applicant's attorney. Mr. Von Arx brought up the witnesses that will be providing testimony for the application and the following professionals were sworn in by Mr. Kovats:

1. Andrew Blumetti of Andrew Blumetti Architecture, Planning & Design, 267 Vanderveer Place, Long Branch, NJ
2. Elizabeth Waterbury, EM Waterbury & Associates, PA, 530 Prospect Avenue, Suite 2C, Little Silver, NJ
3. Christine Cofone, 125 Half Mile Road, Suite 200 Red Bank, NJ, 07701
4. Erik Chiarella, property owner, 16 Church Street.

The following exhibits were marked:

**Exhibit A1** –Application (3 pages)

**Exhibit A2** – Photos (14)

**Exhibit A3** – Survey prepared by Charles Surmonte PE & PLS dated 7/21/22

**Exhibit A4** – Variance Plan (6 sheets) prepared by EM Waterbury & Associates, PA, dated 9/30/22

**Exhibit A5** – Architectural Plans prepared by Andrew Blumetti Architect, Architecture , Planning & Design, not dated (per architect prepared May 2022)

**ZB1** – CME review letter dated 11/28/22

**ZB2** – Zoning official denial letter dated 5/12/22

Mr. Von Arx gave a summary of the application which includes an addition on the primary structure and renovation of the rear cottage. He also confirmed that the shed on the property will be demolished. The rear cottage is a rental unit.

Additional exhibits were marked:

**Exhibit A6** – Tax records cards

**Exhibit A7** – Layout and Dimensioning Plan (colorized rendering), prepared by EM Waterbury & Associates, PA (1 sheet)

**Exhibit A8** – Shed layout, Existing Condition Plan prepared by EM Waterbury & Associates, PA, (2 sheets), dated 9/30/22

**Exhibit A9** – Sanitary sewer connection 8/6/1970 by Sewerage Authority

Elizabeth Waterbury testified of her credentials and the Board stipulated to her credentials. Ms. Waterbury reviewed **Exhibit A8**. She reviewed the location of the buildings on the property and the setbacks were discussed. She then reviewed the proposed zoning using **Exhibit A7**.

Mr. Chiarella testified that he purchased the property in November of 2021 and all improvements noted by Ms. Waterbury existed prior to the purchase of the property by Mr. Chiarella.

There was discussion regarding the driveway and the materials on the driveway. The driveway is proposed to be re-configured using gravel. There was also discussion about lot coverage, which will be compliant with the proposed changes.

Ms. Waterbury testified that the two habitable units will be below the maximum 2200 square footage allowed. Ms. Waterbury summarized the variances requested.

Mr. Rizzo confirmed that the 371 habitable square feet is being added by the project.

Mr. Kovats confirmed that notice allowed jurisdiction by the Board.

Ms. Cofone provided testimony regarding what variances requested. She reviewed that the rental of the unit is a pre-existing non-conforming condition. Ms. Cofone is not asking for permission or interpretation of the Zoning Officer's letter. The applicant is expanding a non-conforming use by adding a second story.

Mr. Kovats stated that the applicant must prove whether the use was grandfathered use for the property and that it has been in existence since the use was grandfathered.

There was discussion regarding the criteria needed to show that the second building in the rear has always been a dwelling unit.

There was discussion regarding the tax bill showing two dwelling units.

Mr. Von Arx requested a quick conference with their client. Mr. Von Arx requested that the application be carried to the March meeting.

Mr. Lehder asked about the age of the rear structure. Mr. Andrew Blumetti, the applicant's architect, gave his credentials and was accepted by the Board.

Mr. Blumetti said that the second dwelling was constructed around the same time as the original structure. He mentioned that there is separate electric and gas service at the rear structure. He mentioned level of decay, materiality, stairwell size and non-conforming ceiling heights. There was discussion regarding the layout of the rear dwelling.

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

MOTION by Mr. Lehder and second by Mr. Neczesny to carry the Chiarella application to the March 2, 2023 meeting for additional testimony.

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

Opposed: none

Mr. Neczesny reviewed the first administrative item: *Approval of Minutes from December 1, 2022 meeting*. There were no comments regarding the minutes.

MOTION by Dr. Laufer and second by Mr. Ridgeway to approve the December 1, 2022 meeting minutes.

In favor: Ridgeway, Ryan, Laufer, Lehder

Opposed: none

Recused: Neczesny

Mr. Neczesny reviewed the next item: *Approval of resolution for Owens/Corej – 45 Second Street, Block 13 Lot 35, Zone R-5.*

MOTION by Dr. Laufer and second by Mr. Ryan to approve the resolution for variance relief for Owens/Corej, 45 Second Street Block 13, Lot 35, Zone R-5.

In favor: Ridgeway, Ryan, Laufer, Lehder

Opposed: none

Mr. Lehder introduced the next agenda item: *Approval of resolution for Smith – 15 William Street, Block 45 Lots 24 & 25, Zone R-5.*

MOTION by Dr. Laufer and second by Mr. Ryan to approve the resolution for variance relief for Smith, 15 William Street, Block 45, Lot 24 and 25, Zone R-5.

In Favor: Ridgeway, Ryan, Laufer

Opposed: none

There was discussion regarding the 2021 Annual Report. Mr. Ryan felt there should be some re-work on the document. The goal is to move the document in February.

Mr. Neczesny mentioned the 2022 Annual Report. The secretary suggested that she will provide data in mid-February for the 2022 Annual report.

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

The meeting was opened to the public. Carolyn Ferguson, 7 Colonial Court, spoke regarding the fence ordinance and requested that the ordinance be reviewed, as there are discrepancies. Ms. Ferguson said she was at the meeting to observe and see the response that the Zoning Board has to the current Fence ordinance.

Mr. Ryan asked about the Peralta resolution. There was a discussion regarding the receipt of the square footage required to complete the resolution.

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

MOTION by Mr. Lehder and second by Mr. Ridgeway to move into closed session to discussion litigation.

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

Opposed: none

The Board moved into closed session at 10:00 pm and returned to the regular meeting at 10:25 pm.

Roll call:

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

Absent: Kinsella

MOTION by Mr. Lehder and second by Mr. Neczesny to appoint Michael Irene, Esq. as Special Counsel for the Zoning Board in the litigation filed by Mr. Gasiorowski on behalf of Mr. Santos against Paolo and the Fair Haven Zoning Board.

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

Opposed: none

Mr. Lehder made a MOTION to close the meeting that was carried by voice vote at 10:28 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 last 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.**