

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – March 2, 2023**  
**7:15 pm**

The meeting was called to order at 7:20 pm by Mr. Neczesny, Vice Chairman, with the reading of the Open Public Meetings Act Statement (below).

Roll Call:

Present: Neczesny, D'Angelo, Ryan, Forte, Laufer, Kinsella

Absent: Ridgeway, Schiavetti, Lehder

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

Mr. Neczesny led a salute to the flag.

Mr. Neczesny addressed the applicants to let them know that the Board was comprised of six voting members. With the 'D' variances requested, a minimum of five positive votes would be needed for approval of the proposed applications.

The applicants' attorneys met privately with their clients, while the Board moved on to the administrative items on the agenda.

Mr. Neczesny introduced the first administrative item: *Approval of Minutes from January 12, 2023 Executive Session.*

MOTION by Dr. Laufer and second by Mr. Neczesny to approve the minutes from the January 12, 2023 Executive Session.

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer  
Opposed: none

Mr. Neczesny introduced the next administrative item: *Approval of Minutes from January 12, 2023 meeting.*

MOTION by Mr. Neczesny and second by Mr. Ryan to approve the minutes from the January 12, 2023 meeting.

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer  
Opposed: none

Mr. Neczesny introduced the next administrative item: *Approval of Minutes from February 2, 2023 Executive Session.*

MOTION by Ms. D'Angelo and second by Mr. Forte to approve the Minutes from the February 2, 2023 Executive Session.

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

Mr. Neczesny introduced the next administrative item: *Approval of Minutes from February 2, 2023 meeting.*

MOTION by Mr. Neczesny and second by Dr. Laufer to approve the *Minutes from the February 2, 2023 meeting.*

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer  
Opposed: none

Mr. Neczesny introduced the next agenda item: *Approval of resolution for Dugan – 932 River Road, Block 62 Lot 1, Zone R-10A.*

MOTION by Mr. Neczesny and second by Mr. Ryan to approve the Dugan resolution as submitted.

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer  
Opposed: none

Mr. Neczesny asked about the Peralta application. The applicant will be providing information for the resolution with the hope that the resolution can be presented at the April meeting.

There was discussion regarding the April meeting date and the potential need to adjust the meeting date.

The attorney for the Chiarella/Brown application, Mr. Von Arx, returned to the meeting and stated the applicant would like to proceed.

Mr. Neczesny introduced the Chiarella/Brown application:

Chiarella/Brown – 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.

Mr. Kovats swore in the professionals providing testimony for the application:

1. Andrew Blumetti, 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, applicant, 16 Church Street, Fair Haven

The Borough engineer, Jordan Rizzo was also sworn in by Mr. Kovats.

Mr. Kovats marked the following Exhibit:

**Exhibit A10** –2 maps and writing key from Sanborn Insurance, copyright 1922 submitted by Elizabeth Waterbury PE, PP, CME, (4 sheets).

Mr. Von Arx provided opening remarks and summarized the January 12, 2023 testimony presented on the application. Since the January meeting, through the Library of Congress, Mr. Chiarella was able to find maps from 1922 showing the two properties on the lot.

Ms. Waterbury, the applicant's engineer, reviewed **Exhibit A-10**. The exhibit includes an email from the source of the map, the Library of Congress. She stated that anything on the map designated with a 'D' is a dwelling. Sheet 3 highlights the area of interest with Ms. Waterbury's verbiage of 'project site,' and shows two dwellings.

Mr. Von Arx asked Ms. Waterbury to review the non-conformities and variances requested for the application.

Ms. Waterbury reviewed the existing, non-conforming conditions, and variances requested using **Exhibit A4**. The Board asked about parking and lot coverage. Ms. Waterbury reviewed the parking plan and referred to sheet 1 of **Exhibit A4**.

The following exhibit was introduced by Ms. Waterbury:

**Exhibit A11** - updated coverage calculations dated March 2, 2023 prepared by Elizabeth Waterbury PE, PP, CME.

Mr. Von Arx asked about the removal of the rear fence. Ms. Waterbury said the applicant is looking to remove any encroachments on other properties including the fence and wooden deck.

Mr. Neczesny reminded the Board that there are no bulk variances associated with the application, only expansion of the current use.

Mr. Forte asked about the credibility of the Library of Congress map based on the shape of the structures shown for the property.

Mr. Kovats asked about the tax records associated with the property. Ms. Waterbury stated that requests had been made to the town and Monmouth County, and no records were available. Ms. Waterbury said that she was verbally told by the water company that records exist back to 1949 but was not able to obtain any written records.

Mr. Von Arx mentioned a resolution of the Zoning Board from December of 1997 recognizing two dwellings on the property and allowing the construction of a deck.

Mr. Kovats marked the following Exhibit:

**Exhibit A12** – Zoning Board Resolution for 16 Church Street dated December 10, 1997, (2 pages).

Mr. Kovats read the resolution to the Board.

Mr. Rizzo, Board engineer, asked that applicant confirm that the attic access is a pull-down staircase. Ms. Waterbury confirmed it will be a pull-down staircase to the attic. Mr. Rizzo asked about the proposed bilco doors on the side of the principal structure. Ms. Waterbury confirmed the doors are to the basement.

Ms. Waterbury addressed Mr. Forte's concern about the credibility of the Library of Congress map, and stated that the information is shown as a map and not a site plan. The shapes of the property and setbacks may not be accurate on a map.

Mr. Kovats asked if the applicant needed to address any of the comments from Mr. Rizzo's letter. Ms. Waterbury stated that she thought her testimony addressed the letter and Mr. Rizzo confirmed.

Mr. Kovats asked if the rear property was occupied and used as a rental.

Mr. Chiarella, the applicant, addressed the Board, and stated the rear structure has been a rental property for the last twenty years.

Mr. Kovats asked if drywells were proposed. Ms. Waterbury stated that drywells were not proposed as lot coverage is being decreased.

Mr. Kovats asked if separate utility service will continue. Ms. Waterbury confirmed it will.

Mr. Von Arx introduced the applicant's planner, Christine Cofone. The Board accepted Ms. Cofone's credentials.

Ms. Cofone confirmed she is familiar with the site and information given to the Board. She testified that the applicant is asking for the expansion of a non-conforming use and requesting a 'D' variance. She stated that the property in the rear, based on research, was continuously used as a second dwelling. She reviewed the tax records of homes in the area to confirm the square footage of the home is harmonious to the neighborhood. She also stated that the applicant would be willing to put in a drywell as a condition of approval of the application. She confirmed that the principal structure, in combination of with the rear structure, will be less than the maximum 2200 square feet required for the zone.

Dr. Laufer asked about meeting the fenestration requirements with the principal structure. The architect, Andrew Blumetti, testified regarding the placement of the windows.

Mr. Ryan asked if the rear structure would be sided to match the principal structure. The applicant confirmed they will be re-siding the rear structure, re-roofing, and installing new windows.

The meeting was opened to the public.

Pamela Stockham, 700 River Road, was sworn in by Mr. Kovats. Ms. Stockham asked about lot coverage and water intrusion on her property.

Ms. Waterbury confirmed the location of Ms. Stockham's home (Block 26 Lot 4), reviewed what will be

removed from the rear of the property, and suggested that a drywell will be installed to re-charge the rainwater from the roof.

Joanne Vincent, 686 River Road, was sworn in by Mr. Kovats. Ms. Vincent asked about the driveway and shed being removed and resulting flow of water to her property.

Mr. Von Arx summarized the testimony of the professionals and presented closing arguments.

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

Mr. Kovats stated that Mr. Kinsella certified that he had viewed the January 2023 Zoning Board meeting video with the initial presentation of the Chiarella application.

The Board deliberated regarding the application.

MOTION by Mr. Kinsella and second by Ms. D'Angelo to approve the Chiarella application with conditions including the stipulation to add a drywell, and to have the siding materials match for the principal and rear structures.

In favor: Neczesny, D'Angelo, Ryan, Forte, Laufer, Kinsella  
Opposed: none

Mr. Neczesny introduced the next application:

DiDio/Taylor – 11 Grange Walk, Block 22, Lot 39, Zone R-15

Request to renovate and expand existing single-family, residential home. Relief requested includes *lot area* (minimum permitted 15,000 square feet, 7,211.07 existing and proposed), *lot frontage and lot width* (minimum permitted 100 feet, lot frontage 65.75 feet existing and proposed, lot width of 60 feet existing and proposed), *minimum front yard setback* (35 feet required, 16.8 feet existing and proposed), *minimum single side yard setback* (12 feet required, 3.4 feet existing and proposed), *minimum required combined side yard setback* (30 feet required, 12.7 feet existing and 9.7 feet proposed), *maximum habitable floor area ratio* (.20 maximum allowed, .235 existing and .35 proposed), and *required residential parking* (3 required behind front yard setback, 2 proposed).

Mr. Kovats swore in the witnesses for the applicant:

Josh DiDio, applicant, 11 Grange Walk, Fair Haven  
Anthony Condouris, 20 Bingham Avenue, Rumson, NJ 07760  
Christine Cofone, 125 Half Mile Road, Suite 200 Red Bank, NJ, 07701

Mr. Brodsky, the applicant's attorney, was introduced.

Mr. Kovats marked the following exhibits:

**Exhibit A1** - Application

**Exhibit A2** – Denial letter from the Zoning Officer dated 10/12/22

**Exhibit A3** – Survey dated 5/4/22

**Exhibit A4** – Architectural plans prepared by Anthony Condouris dated 8/5/22 and revised 12/21/22, 3 sheets

**Exhibit A5** – Photos (9)

**Exhibit A6** - Arial Photo on easel

**Exhibit ZB1** – Board Engineer review letter from Mr. Rizzo 12/19/22

Mr. Brodsky gave opening remarks. He reviewed the existing conditions and variances requested. Mr. Brodsky mentioned that the plans were updated to remove the garage addition and reduce the driveway.

Mr. Kovats confirmed jurisdiction for the Board hearing the application.

Mr. Condouris, architect for the applicant, reviewed **Exhibit A6**, with commentary on the locations and setbacks of the surrounding neighbors.

Mr. Condouris explained that the plans have changed from what was last submitted. The garage addition has been removed and the driveway will not be expanded.

Mr. Condouris reviewed the existing conditions and variances requested including front yard setback; side yard setback, single and combined; number of stories; and habitable floor area ratio.

Mr. Condouris stated that the structure is strong and there shouldn't be issue with building on the existing structure.

Mr. Condouris reviewed to the elevations (**Exhibit A4**). There was discussion regarding combined side yard setback.

Mr. Brodsky spoke about parking. Mr. Condouris explained that there would be a request for additional parking in the front of the home.

Mr. Rizzo asked if there would be changes to the basement. Mr. Condouris confirmed there would be no change to the basement. Mr. Rizzo also asked about the removal of the fireplace. Mr. Condouris confirmed that the fireplace will be removed.

Mr. Condouris explained why pillars were placed in the front of the building as trim and were not structural.

Mr. Condouris confirmed the shed will be removed from the property.

Mr. Rizzo asked about the consideration of drywells.

Mr. Kovats asked about the garage doors and entry door to the garage.

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

Ms. Cofone, planner for the applicant, reviewed the application and stated that many of the variances are associated with the existing conditions. She reviewed the new variances including front yard setback and side yard setback. She then spoke of the floor area ratio and compared the lot to the R-7.5 Zone. The

proposed floor area ratio for the application is .35. In the R-7.5 Zone, the floor area ratio is .35. Ms. Cofone compared the R-15 Zone to the R-7.5 Zone.

Dr. Laufer asked how many of the lots in the immediate area were undersized for the R-15 Zone.

There was discussion regarding the ridge height of the garage. Per Mr. Condouris, the change to the garage height will increase from 5 feet to 7 feet.

Mr. Ryan asked for confirmation of the expansion of the patio and inclusion in the proposed plan.

The meeting was opened to the public for questions for Mr. Condouris and Ms. Cofone. There were no comments from the public.

Mr. Rizzo stated that the seven technical comments in his review letter were addressed with the re-submission.

Mr. Brodsky gave closing comments.

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

The Board deliberated regarding the application. There was discussion regarding the undersized nature of the lot and size of the home. There was discussion regarding the habitable floor area ratio, and renovation versus new construction.

MOTION by Mr. Neczesny and second by Mr. Ryan to approve the DiDio/Taylor application as presented with additional variances for front yard parking, height, and number of stories of the structure, along with additional conditions including:

- the placement of drywells with soil testing
- revision of plans to show the elimination of the extension to the garage, height of the garage, reduction in size of the driveway, and inclusion of additional patio space to stay within the lot coverage requirements

In favor: Neczesny, D'Angelo, Ryan, Forte, Kinsella

Opposed: Laufer

There was discussion regarding the date of the April 6<sup>th</sup> meeting. The Board concluded that the meeting would remain scheduled for the April 6<sup>th</sup> date.

Mr. Kovats said that the contracts for the professionals will be carried to the April meeting.

Mr. Forte and Ms. D'Angelo confirmed they had completed the stormwater management training.

There was discussion regarding the 2021 Annual Report. It will be distributed for review before the April meeting.

There was discussion regarding the 2022 Annual Report. Mr. Neczesny and Mr. Ryan will put together the 2022 report.

The meeting was opened to the public.

Ruth Blaser, River Road, requested that the meeting be broadcast over Zoom.

Councilman LaBarbera spoke to the Board. He reviewed his meeting with the Land Use Committee and the status of changes to the Land Use ordinances.

Mr. Kovats reviewed the letter that went to Mayor and Council regarding the fence ordinance.

Mr. Kovats also stated that there is no update regarding the current litigation against the Board.

Mr. Neczesny made a MOTION to close the meeting that was carried by voice vote at 9:35 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.