

**FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes – May 4, 2023**  
**7:15 pm**

The meeting was called to order at 7:16 pm by Mr. Lehder, Chairman, with the reading of the Open Public Meetings Act Statement (below).

Roll Call:

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

Absent: Ridgeway

Also Present: Mr. Kovats, Board Attorney; Mr. Rizzo of CME, Board Engineer (arrived 7:25 pm); Mayor Halpern; Planning Board members Mr. Anderson and Mr. Paolo.

Mr. Lehder led a salute to the flag and introduced the first agenda item: *Discussion of Ordinance No. 2023-02: Amendments to Fair Haven's Land Use Code*. Mr. Lehder acknowledged the Mayor and Planning Board members' participation. There was discussion regarding the enforcement of the new ordinances versus the previous ordinances.

Mr. Lehder provided a history of the changes in the Land Use ordinance. Each of the definitions in Ordinance no. 2023-02 was reviewed and discussed by the Board including attic, basement, building height, crawl space, finished floor elevation, floor area, habitable floor area, grade, setback, and prevailing front yard setback.

- *Attic* – discussion of the use of a fixed staircase and the height requirement for the ceiling.
- *Basement* – discussion of the measurement of 30 inches above grade to first floor elevation as the standard for determining a basement versus a cellar. A cellar is 30 inches or less and a basement is above 30 inches.
- *Building Height* – discussion regarding the incorporation of the definition for average existing grade to determine building height.
- *Crawl Space* – newly included within the code.
- *Finished Floor Elevation* – discussion of whether the 30-inch measurement was a design standard and inclusion in the definitions.
- *Floor Area* was reviewed, as it is a new definition and measurement.
- *Habitable Floor Area* – discussion took place regarding the history of this definition and its use. This definition was removed from the ordinance.
- *Grade, Average Existing Grade* was reviewed.
- *Setback* - discussion of the measurement of front yard setback.
- There was discussion of the deletion of *30-7 General Zoning Regulations, Section 30-7.8. h*. Mr. Schiavetti will analyze the deletion of this section and the impact.
- *Prevailing front yard setback* is also a new definition for new construction.

Mr. Neczesny introduced the next agenda item: *Annual Report 2021*. The 2021 Annual Report was reviewed.

Discussion then ensued regarding apartments above garages and short-term rentals. Mayor Halpern mentioned that the Council is having a workshop regarding short-term rentals.

There was also conversation regarding as-built surveys and confirmation of building requirements after a structure is built.

MOTION by Mr. Neczesny and second by Mr. Forte to approve the 2021 Annual Report.

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

Opposed: none

Mr. Neczesny introduced the next agenda item: *Annual Report 2022*. Mr. Neczesny and Mr. Ryan will work on creating this report.

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

MOTION by Mr. Neczesny and second by Mr. Kinsella to approve the minutes from the March 2, 2023 meeting.

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

Opposed: none

Mr. Neczesny introduced the next agenda item: *Approval of resolution for Chiarella/Brown – 16 Church Street, Block 26, Lot 16, Zone R-5*.

MOTION by Mr. Neczesny and second by Mr. Kinsella to approve the Chiarella/Brown resolution as submitted.

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

Opposed: none

Mr. Neczesny introduced the next agenda item: *Approval of resolution for DiDio/Taylor – 11 Grange Walk, Block 22, Lot 39, Zone R-15*.

MOTION by Mr. Neczesny and second by Ms. D'Angelo to approve the DiDio/Taylor resolution as submitted.

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

Opposed: none

Mr. Neczesny introduced the next agenda item: *Pending approval of resolution for Peralta – 88 Buena Vista Avenue, Block 64 Lot 6.01, Zone R-10A*

Mr. Lehder reviewed the status of the application. The applicant submitted the required documentation showing the floor area needed for the resolution. Mr. Kovats asked for confirmation of a letter from Heyer Gruel and Associates confirming the floor area needed for the resolution. Mr. Lehder read the resolution prepared for the Peralta application and requested inclusion the following statement for approval of the resolution:

...that the attic should have counted towards the floor area.

Attached is correspondence from Heyer Gruel and Associates calculating the area including the garage and differing with the Board's opinion that the attic should be counted. The Board determines that because the application did not involve finishing that space, then does not need to determine whether it counts or not. No release required, and no statement is being made as to whether that space is included or excluded.

MOTION by Mr. Lehder and second by Dr. Laufer to approve the Peralta resolution as modified.

In favor: Ryan, Laufer, Lehder

Opposed: none

There was discussion regarding the contracts for the Board Attorney, Board Engineer, and Board Planner.

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 9:22 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.