

## **FAIR HAVEN ZONING BOARD OF ADJUSTMENT Regular Meeting Minutes - October 5, 2023**

**7:15 pm**

The meeting was called to order at 7:17 pm by Mr. Lehder, Chairman, with the reading of the Open Public Meetings Act Statement (below) and review of the Zoning Board's role.

### **Roll Call:**

Present: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti and Lehder  
Absent: Ryan including alternates D'Angelo and Forte  
Also Present: Mr. Kovats, Board Attorney; Mr. Jordan Rizzo, Board Engineer

Mr. Lehder led the Salute to the Flag and introduced the first agenda item:

### **Old Business**

There was no old business brought before the Board.

### **New Business**

Chairman Lehder stated that the Board was ready to proceed with the Ryan application, however, it was learned, this evening, that a notice was issued to a Board member. There would have been six members to hear the application, but now there are only five. Rick Brodsky, Esq., attorney for the applicants, placed himself on record.

Mr. Brodsky was advised that there are only five members present that could hear the application. There was another factor, where Mr. Kinsella, in the past, had recused himself from applications that are nearby the Shrewsbury River Yacht Club as he is a member and a former officer. It was not found that the recusal is necessary if Mr. Kinsella could be objective. Mr. Brodsky asked if the application is not heard this evening, what agenda would the matter be listed on? Engineer Rizzo said that next month's agenda is open besides the Whispering Woods matter. There are five pending applications that have not been deemed complete. Chairman Lehder said that the Ryan matter could be listed first on the November 2<sup>nd</sup> agenda and asked who would be the recusals for the application besides Mr. Ridgeway? Mr. Brodsky said that two of his witnesses have a conflict with the date and asked if they could be listed on the December 7<sup>th</sup> agenda. Mr. Neczesny made a motion to carry the matter to December 7<sup>th</sup>, second by Dr. Laufer with Ayes by all present except Mr. Ridgeway who recused himself. Mr. Kovats advised that there is no need to re-notice, unless there are modifications to the application.

Andrew LaBarbera, Council Liaison, made the Board aware that there will be an introduction of ordinance to amend the Riparian Buffer ordinance at the October 10<sup>th</sup> Council meeting. He just wanted to make the Board and Mr. Brodsky aware of the ordinance change since it will take effect before the Board's December meeting. There was brief discussion on whether the amendment would affect the application which has already been deemed complete to be heard by the Board. This will be reviewed and buttoned up before the December 7<sup>th</sup> meeting.

### **Ryan – 917 River Road, Block 51 Lot 8, Zone R-20**

Request to construct a new two-story addition and second story addition to the existing residential dwelling, as well as new deck; Variance relief requested: *Minimum lot area* is 20,000 square feet where 6,606 square feet is existing and proposed; *minimum lot width* and lot frontage is 100 feet where 61.12 feet is existing and proposed; *minimum lot depth* is 150 feet where 104.5 feet is existing and proposed; *minimum required front yard setback for principal building* is 50 feet where 18.1 feet to the house is existing and proposed, and 14.1 feet to the front porch is existing and proposed; *minimum required single side yard setback for principal building* is 14 feet where 5.6 feet is existing and proposed; *minimum required combined total of two side yard setbacks for principal building* is 35 feet where 21.3

feet is existing and proposed; maximum permitted lot coverage is 35% where 59.43% is existing and 45.06% is proposed; maximum permitted habitable floor area ratio is .18 where .278 is existing and .395 is proposed.

Rick Brodsky, Esq., Ansell Grimm and Aaron, enter his name for the record. He and the Board discussed open application issues with Engineer Rizzo. The applicant is requesting a waiver from three of the checklist items that are listed on page 5 of Engineer Rizzo's September 5<sup>th</sup> letter:

1. Monmouth County Planning Board Application
2. Freehold Soil Conservation District Application
3. Monmouth County Board of Health Application

Engineer Rizzo recommended that those items be waived. Chairman Lehder made a motion to deem the application complete notwithstanding the applicant's request that the Board defers the checklist items (Attorney Kovats advised that the letters pertaining to the request would be marked as Exhibit 1 and Exhibit 2), second by Mr. Kinsella.

In favor: Neczesny, Laufer, Kinsella, Schiavetti, Lehder.

Opposed: None

Abstain: Ridgeway

Absent: Ryan

Mr. Lehder introduced the next agenda item:

*Whispering Woods Hearing - Santos versus the Fair Haven Zoning Board and Paolo/Personette – 78 Pine Cove Road, Block 78 Lot 13.07, Zone R-30.*

Mr. Kovats explained that an email was received from the attorney for Paolo/Personette requesting an adjournment of the matter and all of the involved parties have agreed to the request. Chairman Lehder noted that this matter has been first on the last few agendas. The request for adjournment came on day 10 so we were unable to allow another applicant to notice or be heard this evening. He said it would be best to move this matter to the November agenda. There would not be a need to re-notice. Mr. Kinsella made a motion to carry the Whispering Woods Hearing to the November 2, 2023 agenda, without the necessity to re-notice, second by Dr. Laufer

In favor: Ridgeway, Laufer, Kinsella, Schiavetti

Opposed: None

Abstain: Neczesny and Lehder

Absent: Ryan

### **Administrative Items**

Mr. Neczesny introduced the first administrative item: Approval of Minutes from September 7, 2023 MOTION by Mr. Neczesny and second by Mr. Kinsella to approve the minutes from the September 7, 2023 meeting.

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

Opposed: None

Abstain: Ridgeway and Schiavetti

Absent: Ryan

**Pending Annual Report 2022.** Mr. Neczesny advised that he and Mr. Ryan continue to work on the report and hope to have something for a future Board meeting.

**Proposed Meeting Schedule for 2024.** Mr. Neczesny said the dates were circulated for review. The first Thursday in April is spring break for the schools so that date will be pushed from the 4<sup>th</sup> to the 11<sup>th</sup> and he had a question on the October date and if it fell on a Jewish holiday. The October date will be moved to October 10<sup>th</sup>. Chairman Lehder said that the dates will be voted on at the Board's January Reorganization meeting.

**Approval of resolution for Board Attorney contract**

MOTION by Dr. Laufer and second by Mr. Neczesny to approve the resolution for the Board Attorney's contract

In favor: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti, Lehder

Opposed: None

Abstain: None

Absent: Ryan

**Approval of resolution for Board Planner contract**

MOTION by Dr. Laufer and second by Mr. Neczesny to approve the resolution for the Board Planner's contract

In favor: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti, Lehder

Opposed: None

Abstain: None

Absent: Ryan

**Approval of resolution for Board Engineer contract**

MOTION by Dr. Laufer and second by Mr. Neczesny to approve the resolution for the Board Engineer's contract

In favor: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti, Lehder

Opposed: None

Abstain: None

Absent: Ryan

***Approval of resolution for Hoffman/Kane - 149 Lincoln Avenue, Block 15 Lot 10, Zone R-5***

MOTION by Mr. Neczesny and second by Dr. Laufer to approve the resolution for variance relief

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

Opposed: None

Abstain: Schiavetti

Absent: Ryan

**Approval of resolution for Sullivan, 47 Lake Avenue, Block 20 Lot 15, Zone R-5**

MOTION by Mr. Neczesny and second by Mr. Kinsella to approve the resolution for an extension of time for previously granted variance relief.

In favor: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti, Lehder

Opposed: None

Abstain: None

Absent: Ryan

**Approval of resolution for Rice, 45 Maple Avenue, Block 40 Lot 15, Zone R-5**

MOTION by Mr. Neczesny and second by Mr. Kinsella to approve the resolution for an extension of time for previously granted variance relief.

In favor: Neczesny, Ridgeway, Laufer, Kinsella, Schiavetti, Lehder

Opposed: None

Abstain: None

Absent: Ryan

The meeting was opened to the public at 7:42 p.m.

Mr. Schiavetti stated that the Borough Council held a special meeting and they were going to hire a new Board Secretary; he asked if that happened. Yes, Sheilah Olson was hired and was sitting in the audience. All members welcomed her and look forward to working with her.

Councilman Drew LaBarbera came to speak regarding the Riparian Buffer Zone ordinance that is proposed. Chairman Lehder advised any amendments to a land use ordinance would not affect applications that had already been submitted and reviewed by the appropriate board officials. Michael Irene, Esq., former Board Attorney, sent a letter to the governing body in 2021 outlining all of the issues and the need to update the ordinance. Councilman LaBarbera read from the letter as well as the proposed ordinance. Chairman Lehder provided his understanding regarding the DEP and Riparian area and advised guidelines would be needed if the Board is going to hear applications that fall in the riparian zone, it is not being heard by the DEP. The current stormwater code has narrow exceptions and definitions for consideration of applications based on the DEP's regulations. The Borough was required to adopt the DEP regulations which do not necessarily meet what we have in the Borough. Mr. Schiavetti relayed his feeling and concern with the code, standards and permit by rule. Per Chairman Lehder's recommendation, Councilman LaBarbera will send the ordinance to the Environmental Commission and Engineer Rizzo for review along with Mr. Irene's letter (there are serious flooding issues throughout the Borough).

Chairman Lehder explained the need for drywells for new construction, not only renovation, to assist with water flow and flooding in and around the Borough. He explained the function of the drywell and the materials involved. Engineer Rizzo said that there are municipalities that have codes with drywell requirements that can be reviewed for the Borough's consideration. Mr. Schiavetti gave the history of the Captains Pointe project (DeNormandie Avenue) and corrections that needed to be made to correct issues. It is important to have drywells and spread the responsibility. Mr. Schiavetti felt that it is more than a drainage and stormwater issue; it is disturbance of the land and what keeps it there including the ecosystem and habitats.

Dr. Laufer asked if there is a Borough Code regarding a set bulkhead height; permits and most regulations are dictated by the State. A mandatory bulkhead height would assist with many of the flooding issues in the Borough. The Board's consensus was the need for multi-town controls.

Mr. Schiavetti asked if the Borough acts on behalf the residents when noticed by a neighboring town resident about an application they have before the board (i.e. a Rumson resident on Buena Vista Avenue is requesting a variance, Fair Haven would be noticed). The Acting Secretary (also Borough Clerk) advised that the notice is received and provided to the governing body and professionals for their review and action, if required.

There being no further comments from the public, the meeting was closed at 8:13 p.m.

Mr. Lehder made a motion to close the meeting, second by Mr. Kinsella which was carried by voice vote at 8:14 pm.

Respectfully submitted,

Allyson M. Cinquegrana  
Acting 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.