

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF ARLENE M. PLATT
AND C. TUCKER PLATT
DECIDED ON DECEMBER 20, 2010
MEMORIALIZED ON JANUARY 10, 2011
ANCILLARY "c" VARIANCE EXTENSION APPROVAL**

WHEREAS, Arlene M. Platt and C. Tucker Platt (hereinafter "Platt" or "Applicants") have made application to the Pequannock Township Planning Board (hereinafter "Planning Board"), for an extension of ancillary "c" variance approval previously granted by the Planning Board in connection with the prior Court ordered approval of a minor subdivision in order to permit the Applicants to subdivide existing Lot 5, in Tax Block 604 as designated on the Tax Map of the Township of Pequannock (hereinafter "Township"), into two (2) lots for the construction of a single family dwelling on the newly created flag lot and the existing single family dwelling would continue to remain on the remainder lot, which premises are located at 101 Mountain Avenue, Pompton Plains, New Jersey 07444 and located in the R-22 Zone District (hereinafter "R-22 Zone"); and

WHEREAS, the Land Development Ordinances of the Township more specifically Section 016.05.020 provides that any variance duly granted shall expire one (1) year following the date that final municipal approval has been received by the Applicant, which approval is a prerequisite to the obtaining of a building permit, or two (2) years from the date the variance was granted, whichever comes first; and

WHEREAS, the Applicants request a one (1) year extension of time from December 21, 2010 through December 21, 2011 in regard to the granting of ancillary "c" variance relief as part of the minor subdivision approval; and

WHEREAS, the Planning Board considered this matter at its public hearing on December 20, 2010, after the Board determined it had jurisdiction; and

WHEREAS, the Applicants were represented by Peter V. McArthur, Esq. (hereinafter "Mr. McArthur").

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The application before the Planning Board is a request for a one (1) year extension of time in regard to ancillary "c" variance relief pursuant to the Land Development Ordinances of the Township and more specifically Section 016.05.020 in regard to the Court ordered granting of minor subdivision approval and ancillary "c" variance relief which was memorialized in a resolution adopted by the Planning Board on December 21, 2009 for property known and designated as Block 604, Lot 5 on the Tax and Assessment Map of the Township of Pequannock which premises are located at 101 Mountain Avenue, Pompton Plains, New Jersey 07444 and located in the R-22 Zone.

This matter was the subject of a Prerogative Writ Trial before the Honorable B. Theodore Bozonelis, A.J.S.C. at the Morris County Courthouse, Morristown, New Jersey. The Court entered an Order on November 2, 2009 reversing the decision of the Planning Board and directing that the matter be remanded to the Planning Board for the entry of a resolution granting the Platts' application for minor subdivision approval and ancillary "c" variance relief consistent with the Trial Court's oral opinion of October 21, 2009. Thereafter, in accordance with the Order of the Court, the Planning Board adopted and memorialized a Resolution granting minor subdivision approval with ancillary "c" variance relief on December 21, 2009.

Ancillary "c" variance relief was previously granted by the Planning Board and is now requested to be extended by the Applicants. The Ancillary "c" variance relief and bulk variances relate to both the remainder lot and the newly proposed flag lot. With respect to the proposed remainder lot, the Applicants seek an extension of bulk variances for lot width where 110 feet is required and 109.40 feet is proposed, lot frontage where 110 feet is required and 109.04 feet is proposed and side yard setback where a minimum 15 feet side yard setback on one (1) side is required and 40 feet in the aggregate is required and the Applicants were granted approval for 7 feet on one (1) side and 41.7 feet in the aggregate.

With respect to the proposed new flag lot, the Applicants received bulk variance relief for lot frontage where 50 feet is required and 20.60 feet is proposed, width of the access strip where 50 feet is required and 20.60 feet is proposed, side yard setback where 50 feet is required and only 35 feet for each side is proposed. (This is in connection with the reorientation of the house on the rear lot to now face Mountain Avenue).

Pursuant to the Land Development Ordinances of the Township, more specifically Section 016.05.020 variances expire in one (1) year unless the Applicant has obtained a building permit relative to development on the site. In this instance, since the Resolution was memorialized on December 21, 2009, the ancillary "c" variance previously granted will expire, unless extended, on December 21, 2010. The Applicants, therefore, seek a one (1) year extension of ancillary "c" variance relief through December 21, 2011.

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The application before the Board is a request for an extension of time under the Land Development Ordinances of the Township to extend the aforementioned ancillary "c" variances previously granted as part of this minor subdivision approval for a period of one (1) year pursuant to Section 016.05.020. The Board notes that pursuant to Section 016.05.020, variances expire in one (1) year unless the Applicant has obtained a building permit relative to the development of the site. In addition, pursuant to 016.05.020c, the Board may, on 1) timely application and 2) a showing that all of the conditions existing at the time of the original approval remain unchanged, extend the time for a period of one (1) year from the expiration of the original approval. No more than two (2) extensions may be granted.

In this instance, the Board accepts the representations of Mr. McArthur who indicated that the Applicants are actively working to satisfy the Court ordered condition that the Applicants obtain a 5 foot permanent easement for landscaping purposes running with the land on property previously owned by Mr. Henry and known and designated as Tax Lot 6 in Block 604 on the Tax and Assessment Map of the Township of Pequannock. The landscape easement would run with the land and would be in favor of the proposed flag lot. This item involves condition number 14 of the memorializing Resolution. Mr. McArthur represented that Mr. Henry has sold the property to new owners. The new owners are represented by Bernard Montalbano, Esq. Mr. McArthur also stated that he has prepared an easement which has been submitted to the Board Attorney and Township Surveyor for review and approval in anticipation of finalizing the easement with Mr. Montalbano. He

further stated that Mr. Montalbano has recommended that his clients grant the easement to Mr. and Mrs. Platt.

The Board considered the Applicants request for a one (1) year extension of the variance approval through December 21, 2011. However, the Board also notes that on June 21, 2010 the Planning Board previously granted minor subdivision extension approval to the Applicants in order to extend the minor subdivision for a period of one (1) year through June 30, 2011. As a result, the Board determines that it is appropriate to grant an extension of the previously granted ancillary "c" variance relief through June 30, 2011 so that the minor subdivision approval and ancillary "c" variance approval would run concurrently and would both expire on June 30, 2011.

The Board further finds that the Applicant, as a condition of approval, is required to obtain a 5 foot landscape easement from the present owner or future owner of Lot 6 in Block 604 consisting of a 5 foot permanent easement for landscaping purposes running with the land on said lot in favor of the proposed flag lot, which condition is consistent with the stipulations by the Applicants on the record during the hearing process and in accordance with the decision of the Court. The Board specifically finds that this condition is a condition precedent to perfecting the minor subdivision. The Board is satisfied that the Applicant is diligently pursuing efforts to comply with the Order of the Court as well as condition number 14 of the memorializing Resolution of approval. As a result, the Board determines that it is appropriate to grant an extension of ancillary "c" variance relief through June 30, 2011 so as to run concurrently with the extension, previously granted, of minor subdivision approval.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board that the application of Arlene M. and C. Tucker Platt for property known and designated as Lot 5 in Tax Block 604 on the Tax and Assessment Map of the Township of Pequannock, located at 101 Mountain Avenue, Pompton Plains, New Jersey in the R-22 Zone requesting an extension of time with respect to ancillary "c" variance relief is granted through June 30, 2011 pursuant the Land Development Ordinance of the Township Section 016.05.020c subject to the following terms and conditions:

1. The development of the parcel shall be implemented in accordance with the plans submitted and approved.

2. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

3. All terms and conditions of the Resolutions granting minor subdivision approval and extending minor subdivision approval through June 30, 2011 shall remain in full force and effect with the exception of the Applicants being granted an extension of time with respect to ancillary "c" variance relief, which extension shall run through June 30, 2011.

4. The Applicants represent that all of their representations and stipulations made by them or on their behalf to the Township of Pequannock Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon the said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.

5. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the hearing on December 21, 2010.

6. Certificate that taxes are paid current to date of approval.

7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey.

The undersigned secretary certifies the within Resolution was adopted by the Pequannock Township Planning Board on December 20, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on January 10, 2011.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

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**RESOLUTION
TOWNSHIP OF PEQUANNOCK PLANNING BOARD
IN THE MATTER OF ROBERT DEGEORGE
DECIDED ON DECEMBER 20, 2010
MEMORIALIZED ON JANUARY 10, 2011
MINOR SUBDIVISION APPROVAL AND
ANCILLARY "C" VARIANCE RELIEF**

WHEREAS, Robert DeGeorge, Sr. (hereinafter "DeGeorge" or "Applicant") has filed an application with the Pequannock Township Planning Board, (hereinafter "Planning Board" or "Board"), seeking minor subdivision approval and ancillary "c" variance relief for property known as Block 1202, Lot 42 on the Tax and Assessment Map of the Township of Pequannock and located at 76 Hopper Avenue, Pompton Plains, New Jersey in the R-15 Single Family Residential Zone District (hereinafter R-15 Zone); and

WHEREAS, a public hearing was held on December 20, 2010 after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was not represented by legal counsel.

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The application before the Board is a request for minor subdivision approval and ancillary "c" variance relief for property known as Block 1202 Lot 42 on the Tax and Assessment Map of the Township of Pequannock, which premises are located at 76 Hopper Avenue, Pompton Plains, New Jersey in the R-15 Zone.

Testifying on behalf of the Applicant during the course of the hearing process were the Applicant, Robert DeGeorge, Sr. and Paul Darmofalski, P.E., P.P. (hereinafter "Darmofalski"). Submitted in support of the application were the following documents:

1. Completed Subdivision Application, signed by Robert DeGeorge, Sr., dated December 4, 2010.
2. Completed Variance Application, signed by Robert DeGeorge, dated December 4, 2010.
3. Minor Subdivision, consisting of one sheet, prepared by William F. Zimmerly & Associates, dated November 30, 2010.
4. Proposed Subdivision Plan prepared by Darmofalski Engineering Associates, Inc., dated December 2, 2010, consisting of four sheets.

The Applicant seeks minor subdivision approval along with ancillary "c" variance relief in order to create two new lots from one existing lot. The application also includes the development of a single family residence on adjacent lot 41. The redevelopment of Lot 41 has been included with this application to demonstrate integration of design for all three lots.

The subject site consists of an oversized 38,766 square feet lot, developed with a large single family residence located in the western portion of the site. The adjacent Lot 41 has an existing one and one-half story single family residence with garage and a pool. There is a circular driveway associated with existing lot 42. However, the circular driveway is located on Lot 41 and Lot 42.

The Applicant seeks to subdivide the existing oversized lot into two lots. One lot will have a conforming lot size and one lot will be undersized. In addition, the application proposes the demolition of an existing single family residence on adjacent Lot 41 and its replacement with a new single family residence.

Lot 42 currently consists of 38,766 square feet of lot area. In accordance with the proposed subdivision, proposed Lot 42.1 would consist of 26,039 square feet of lot area and proposed Lot 42.2 would consist of 12,727 square feet of lot area. Variances in regard to the proposed subdivision are required in connection with this development application. More specifically, as to proposed Lot 42.1, the Applicant requires ancillary "c" variance relief in regard to the side yard setback requirement where a 15 feet side yard setback for one side and 35 feet in the aggregate is required. The Applicant is proposing a side yard setback of 10.42 feet on one side and 30.42 feet in the aggregate. Additionally, the Applicant requires ancillary "c" variance relief in regard to building coverage where the maximum building coverage allowed is 15% and the Applicant proposes building coverage of 17.7%. Also, the Applicant requires variance relief for impervious surface coverage where 35% maximum is permitted and the Applicant proposes 38.26%.

With respect to proposed Lot 42.2, the Applicant requires ancillary "c" variance relief for lot area where the minimum lot area in the R-15 Zone is 15,000 square feet and the Applicant proposes a lot area of 12, 727 square feet. In addition, the Applicant requires bulk variance relief in regard to lot width and lot frontage where 100 feet is required and 90 feet is proposed. Finally, the Applicant requires variance relief for lot depth where the minimum lot depth in the R-15 Zone is 150 feet and the lot depth for proposed Lot 42.2 is 141.96 feet.

The redevelopment of Lot 41 has been included with this application to demonstrate integration of design for all three lots. As part of the design integration, compatible homes, in terms of design and materials are proposed for Lots 41 and 42.2.

The circular driveway will be relocated to proposed Lot 42.1 with new entry pillars along Hopper Avenue. The existing entrance pillars will remain along Hopper Avenue for existing Lot 41 and proposed Lot 42.2.

In regard to development of proposed Lot 42.1, the Applicant intends to construct a detached three-car garage in the rear of the property. The Board Planner, in her review report dated December 14, 2010 recommends that the three-car detached garage be reduced in size in order to eliminate one garage bay, thereby resulting in an overall reduction in the size of the detached garage. In addition, the Board Planner similarly recommends the removal of some of the driveway macadam related to the reduction in size of the detached garage. The purpose in downsizing the detached garage would be in order to reduce or eliminate the nonconformities for building coverage and impervious surface coverage on proposed Lot 42.1. The Applicant and Applicant's Engineer stipulated on the record that it would be willing to cut back on the size of the three-car garage in order to have a two-car garage and, at the suggestion of the Board Engineer, the Applicant and the Applicant's Engineer stipulated they would also be willing to reorient the garage 90 degrees and possibly move the garage forward in an attempt to reduce or eliminate the nonconformities for building coverage and impervious surface coverage. The application as originally filed required the Applicant to seek variance relief for maximum building coverage where 15% maximum is allowed and the Applicant proposed 17.7% as well as for maximum impervious surface coverage where 35% is allowed and 38.26% is proposed. Darmofalski represented that even with the reduction in size of the garage and reorientation of the garage as well as moving the garage forward, it was his opinion that the Applicant would still require

variance relief for maximum building coverage which would be somewhere between 15% and 17.7%, but not exceeding 17.7% and that the variance for impervious surface coverage for Lot 42.1 would then be eliminated. As a result, the Applicant through its professional, stipulated that the Applicant is no longer seeking ancillary "c" variance relief for impervious surface coverage on Lot 42.1. However, the Applicant would still require ancillary "c" variance relief for the remaining variances on Lot 42.1 and 42.2 as set forth herein. Darmofalski provided testimony in support of granting the variance relief.

More specifically, Darmofalski testified that the Applicant is seeking ancillary "c" variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c,(1) & (2). Darmofalski also testified that variance relief may be granted because the purposes of the Municipal Land Use Law would be advanced. He stated that under N.J.S.A. 40:55D-2, the purposes of the Act would be advanced pursuant to the following:

(a) encouraging municipal action to guide the appropriate use or development of all lands in a manner which will promote the public health, safety, morals and general welfare;

(c) provide adequate light, air and open space;

(d) the granting of variance relief would not conflict with the development and general welfare of the neighborhood;

(e) the granting of variance relief would promote the establishment of appropriate population densities that will contribute to the well being of persons, neighborhoods and communities; and

(i) the approval of this application and granting variance relief would result in a desirable visual environment.

Darmofalski further provided planning testimony in regard to the development of this site in relation to the existing neighborhood along Hopper Avenue and the surrounding area. Darmofalski also introduced into evidence as Exhibit A-1 a 2007 aerial photograph with a Pequannock Township Tax Map overlay in order to depict the lot areas of the existing residential dwellings in the area and to demonstrate setbacks for the houses in the surrounding neighborhood and as they relate to the proposed subdivision. Darmofalski testified that the proposed front yard, rear yard and side yard setbacks were consistent with the existing development pattern in the area. In addition, the Applicant contends that the proposed subdivision would continue the established development pattern along Hopper Avenue, thereby creating lots that are harmonious with the surrounding environment. Furthermore, according to the Applicant, the proposed subdivision would have no negative impact on the neighborhood or the public good.

Darmofalski also represented that under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) the Applicant has established the proofs for hardship due to the unique shape of the property, as well as the size of the existing parcel consisting of 38,766 square feet of lot area, which is more than twice the lot area required in the R-15 Zone. Furthermore, there is an existing 100 year old house with a portico on existing Lot 42 which, due to the existence of this structure lawfully existing on the property, creates a hardship with regard to this subdivision.

Furthermore, Darmofalski testified in regard to granting ancillary "c" variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) because the proposed development furthers the purposes of zoning and that despite the deviation from the zoning ordinance, the benefits of the approval substantially outweigh any negative detriment.

The Applicant also stipulated that the shed located on the rear of lot 42.2 would be relocated onto Lot 56 or removed in its entirety. The Applicant also stipulated that should the shed be moved to Lot 56, it would be setback 5 feet off of the property line in order to conform with the setback requirements for an accessory structure.

The Applicant also stipulated that with respect to proposed Lot 42.2, the Applicant would relocate the water and gas lines in order to allow for landscaping as well as to maintain a five (5) feet buffer to the property line of adjacent Lot 43.

The Applicant also stipulated that in regard to the portico on Lot 42.1, that there is in existence an easement that permits the portico to overhang Lot 41. The Applicant also indicated that because the portico was as old as the house, which is approximately 100 years old, the Applicant would like to retain the portico. However, the Applicant also stipulated that if the Applicant is not able to provide proof of an existing easement to allow for the overhang of the portico on to Lot 41, the Applicant would provide a new easement which would be recorded in the Office of the Morris County Clerk in regard to the portico overhanging the lot line on Lot 41.

The Applicant also stipulated that an access easement on Lot 56 would be extinguished. The common driveway easement for Lots 41 and 42.1 would similarly be extinguished.

The Applicant also stipulated that it would comply with all terms and conditions set forth in the Board Engineer's review report dated December 16, 2010.

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The application before the Board is a request for minor subdivision approval and ancillary "c" variance relief for property known and designated as Tax Block 1202, Lot 42 as shown on the Tax Map of the Township of Pequannock and located at 76 Hopper Avenue, Pompton Plains, New Jersey in the R-15 Zone.

The Applicant seeks to subdivide the existing lot, which consists of 38,766 square feet in order to create two lots identified as proposed Lot 42.1 which will consist of 26,039 square feet and proposed Lot 42.2 which will consist of 12, 727 square feet.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional

practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

With respect to the impervious surface coverage variance applied for by the Applicant, as a result of reducing the size of the detached garage as well as reorienting the location of the garage 90 degrees and possibly moving the garage forward, the Applicant will be able to comply with the impervious surface coverage requirements in the R-15 Zone for Lot 42.1 and, thus, the Applicant has withdrawn its request for variance relief for impervious surface coverage on Lot 42.1. As to maximum building coverage on Lot 42.1, the Board understands that the Applicant has applied for ancillary "c" variance relief and the plans as presently constituted demonstrate that the maximum building coverage will be 17.7%. The Applicant is reducing the size of the

detached garage as well as its reorientation 90 degrees and possibly moving it forward on the lot. Thus, the maximum building coverage will be reduced, but it is likely to still be beyond 15%. Thus, the Board determines that it is appropriate to grant ancillary "c" variance relief in regard to maximum building coverage on Lot 42.1, however it shall not exceed 17.7%. As to Lot 42.1, the Board determines that it is appropriate to grant side yard setback variance relief where a minimum of 15 feet on one side and 35 feet in the aggregate is required and the Applicant proposes 10.42 feet on one side and 30.42 feet in the aggregate. The Board concludes that it is appropriate to grant ancillary "c" variance relief because the side yard setbacks will be consistent with the side yard setbacks of the existing residential dwellings along Hopper Avenue and in the vicinity. In addition, the Board determined that these deficiencies are minor in nature.

As to proposed Lot 42.2, the Board determines that the variances for minimum lot width and lot frontage where 100 feet is required and 90 feet is proposed and for minimum lot depth where 150 feet is required and 141.96 feet is proposed are de minimis in nature and may be granted. Furthermore, the Board finds that the deficiencies will not be perceptible to the public and will have no negative impact on the surrounding neighborhood. As to minimum lot size where 15,000 square feet is required and 12,727 square feet is proposed, the Board determines it is appropriate to grant variance relief due to the unique configuration of the lot and that notwithstanding the deficiency, the Lot will be consistent with the existing development pattern along Hopper Avenue.

The Board has examined the request for ancillary "c" variance relief under The Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and the Board concludes

that the Applicant is entitled to "c(1)" variance relief due to the unique shape of this specific piece of property, the fact that the existing parcel is 38,766 square feet where the minimum lot area in the R-15 Zone is 15,000 square feet as well as the fact that there is an existing 100 year old dwelling on the property and the existence of this structure impacts the strict application of the zoning requirements of the R-15 Zone. It is for all of these reasons that the Applicant has demonstrated to the satisfaction of the Planning Board that a hardship exists in order to permit the Planning Board to grant ancillary "c" variance relief pursuant to N.J.S.A. 40:55D-70c(1).

The Board also reviewed the granting of ancillary "c" variance relief under the "c(2)" analysis. In Kaufman v. Planning Board for Warren Twp.

110 N.J. 551, 563 (1988) the New Jersey Supreme Court held:

"By definition, then, no c(2) variance should be granted when merely the purposes of the owner will be advanced. The grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of a "c(2)" case, then, will be not on the characteristics of the land that, in light of current zoning requirements, create a hardship on the owner warranting a relaxation of standards, but on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community."

Therefore, under the "c(2)" analysis, the Board determined that the positive and negative criteria were met by the Applicant and the granting of ancillary "c" variance is set forth herein as appropriate. The Board also concludes that based upon its review of the immediate vicinity and surrounding lots, the departure from the zoning ordinance requirements would be consistent with the existing development pattern along Hopper Avenue. The Board finds that the proposed subdivision would have no

negative impact on the neighborhood or the public good. As a result, the Board concludes that the granting of minor subdivision approval and ancillary "c" variance relief as set forth herein may be granted under the "c(2)" criteria because it will not be substantially detrimental to the public good and further, the approval will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board also concludes that the benefits of the approval would outweigh any conceivable negative detriment. Under these circumstances, it is appropriate for the Board to grant ancillary "c" variance relief under the "c(2)" analysis.

Upon consideration of the plans, testimony and application, the Board determines that the proposed minor subdivision plan has met the minimum requirements of the Municipal Land Use Law, case law and Township ordinances to a sufficient degree so as to enable the Board to grant the relief being requested. The Board further finds that the granting of this application will not adversely impact or impair the use and enjoyment of adjacent properties.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of Robert DeGeorge, Sr. for premises commonly known and designated as Tax Block 1202, Lot 42 on the Tax and Assessment Map of the Township of Pequannock, located at 76 Hopper Avenue, Pompton Plains, New Jersey in the R-15 requesting minor subdivision approval and ancillary "c" variance relief is determined as follows:

1. Minor subdivision approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47 as well as the land development ordinances of the Township of Pequannock.
2. Ancillary "c" variance relief is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) and (2) as well as the Land Development Ordinances of the Township of Pequannock in regard to proposed Lot 42.1 for minimum side yard setback on one side and in the aggregate, and for maximum building coverage. The maximum building coverage is 15% and the Applicant proposes building coverage not to exceed 17.70%. As to proposed Lot 42.2 ancillary "c" variance relief is granted for lot area, lot width, lot frontage and lot depth as set forth on the record and as indicated on the subdivision plan submitted and approved by the Planning Board

IT IS FURTHER RESOLVED that the above land use relief is granted subject to the following terms and conditions:

1. The subdivision of this parcel shall be implemented in accordance with a subdivision plan prepared by Paul P. Darmofalski, dated December 2, 2010 consisting of four (4) sheets and any subsequent revisions thereto as directed by the Planning Board or the Board's professionals.
2. The Applicant represents that all of its representations and stipulations made by it or on its behalf to the Township of

Pequannock Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.

3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on December 20, 2010.
4. The Deed recorded memorializing the minor subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board engineer and Board attorney. The Applicant shall record the subdivision Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render the approval null and void.
5. The Applicant shall comply with all terms and conditions set forth in the Board Engineer's review report dated December 16, 2010, which shall be subject to the review and approval of the Board Engineer.
6. The Applicant shall comply with all terms and conditions set forth in the Board Planner's review report dated December 14, 2010, which shall be subject to the review and approval of the Board Planner.

7. The granting of this application is subject to and conditioned upon the Township of Pequannock Tax Assessor assigning appropriate lot numbers in connection with this approval.
8. The granting of this application is subject to and conditioned upon Morris County Soil Conservation District approval, if required.
9. The granting of this application is subject to and conditioned upon New Jersey Department of Environmental Protection (NJDEP) approval, if required.
10. The granting of this application is subject to and conditioned upon Morris County Planning Board approval, if required.
11. The granting of this application is subject to and conditioned upon the Township of Pequannock Health Department approval of the septic systems, if required.
12. The granting of this application is subject to and conditioned upon the Applicant reducing in size the detached garage on proposed Lot 42.1, and reorienting the garage 90 degrees, and any other measures to reduce building coverage, which shall be subject to the review and approval of the Board Engineer and Board Planner.
13. The granting of this application is subject to and conditioned upon the Applicant relocating the shed on Lot 42.2 to Lot 56 or removing the shed in its entirety. In the event the shed is relocated onto Lot 56, the Applicant shall maintain a five (5) feet set back to the

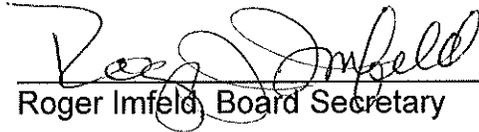
property line in order to conform to the Land Development Ordinances of the Township of Pequannock in regard to accessory structures.

14. The granting of this application is subject to and conditioned upon the Applicant relocating the water and gas lines on Lot 42.2 in order to permit additional landscaping, if necessary, and in order to maintain a five (5) feet buffer to the property line, which shall be subject to the review and approval of the Board Planner.
15. The granting of this application is subject to and conditioned upon the Applicant extinguishing easements including, but not limited to, the access easement on Lot 56 and the common driveway easement for Lots 41 and 42.1.
16. The granting of this application is subject to and conditioned upon the Applicant providing to the Planning Board a copy of the recorded easement that permits the portico to overhang the lot line on Lot 41. In the event the Applicant is unable to produce a recorded easement, the Applicant shall prepare and record an easement to permit the portico to overhang the lot line on Lot 41, which easement shall be subject to the review and approval of the Board Attorney and Board Engineer.
17. The granting of this application is subject to and conditioned upon the Applicant constructing a single family residential dwelling on Lot 41 and proposed Lot 42.2 substantially in accordance with the

renderings provided to the Planning Board as part of the application process and as stipulated on the record during the course of the public hearing.

18. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
19. Certificate that taxes are paid current to date of approval.
20. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within Resolution was adopted by this Planning Board on December 20, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on January 10, 2011.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote: