

TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Michael and Jennifer Vukosa
PROPERTY LOCATION: Block 3101, Lot 18, 22 Birch Road
APPROVED: April 2, 2015
MEMORIALIZED: May 7, 2015

WHEREAS, Michael and Jennifer Vukosa (“Applicants”) have requested variances for maximum building coverage and minimum front yard setback to permit the enlargement of an existing residential dwelling on property located at 22 Birch Road, known and designated as Block 3101, Lot 18 on the Tax Maps of the Township of Pequannock in the “R-15” zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on April 2, 2015; and

WHEREAS, the Board heard the testimony by Applicants, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicants filed an Affidavit of Proof that Notice of Hearing was given as required by law; and

WHEREAS, a complete application has been filed, the fees required by ordinance have been paid, and the jurisdiction and powers of the Board have been properly invoked and exercised;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with regard to the application.

1. Applicants provided adequate notice of the application and the hearing in accordance with the New Jersey Municipal Land Use Law (“MLUL”).
2. The Property, owned by Applicants, measures 15,598.8 square feet and is located

at Block 3101, Lot 18, 22 Birch Road in the Township of Pequannock (“Township”) in the Township’s R-15 zone district.

3. The Property is located at the corner of Birch Road and Davis Avenue and is square in shape.

4. The Property is improved with a two (2) story dwelling and attached two (2) car garage. There is also a 5 foot by 8 foot shed on the northwestern corner of the Property.

5. Applicants seek to enlarge the dwelling by removing an existing bedroom from the dwelling’s first floor and also adding interior living space. The converted and new space will be used to expand the existing kitchen, great room and dining room and add a covered front porch and rear deck.

6. The bedroom removed from the first floor will be relocated to the dwelling’s second floor, which will also be expanded.

7. To permit the requested development, Applicants seek variances for maximum building coverage (15 % required pursuant to the Township Zoning Ordinance (“Zoning Ordinance”), 15.97% provided) and minimum front yard setback (50 feet required pursuant to the Zoning Ordinance, 29.2 feet provided on Birch Road and 30.4 feet provided on Davis Avenue).

8. Applicants’ proposal is depicted on a map prepared by Brian Murphy, R.A. entitled “Proposed Addition to Existing Residence for: Mike and Jen Vukosa, 22 Birch Road, Pompton Plains, NJ” consisting of four (4) sheets, dated January 6, 2015.

9. The Board also received a report from its Professional Planner, Eileen F. Banyra, P.P., A.I.C.P., dated February 26, 2015, the contents of which are incorporated herein by reference.

10. The Board heard the testimony of Michael and Jennifer Vukosa, the Applicants.

11. Mrs. Vukosa testified that Applicants seek the requested variances to update the floor plan of the existing dwelling and add a front porch and rear addition to same. The dwelling's current floor plan dates to the 1950's.

12. Applicant's proposal will enable all bedrooms to be located on the dwelling's second floor, which will provide greater security.

13. In addition, the new front porch will provide greater protection from the elements and will enhance the overall appearance of the dwelling.

14. The Board heard the testimony of Brian Murphy, R.A., Applicants' architect.

15. With regard to the Applicants' requested variance for maximum building coverage, Mr. Murphy testified that in preparing his plans, he erroneously included a one (1) foot cantilever in the rear of the dwelling.

16. As the Township does not include cantilevers in calculations of building coverage, the actual building coverage at the Property is 15.8%, lower than originally stated by Applicants. Mr. Murphy will correct this error on Applicants' plans, as well as any other errors or inconsistencies depicted on the plans. This will be a condition of approval.

17. Mr. Murphy testified that Applicants' proposed rear deck will have to be moved and enlarged slightly. The Board asked Mr. Murphy to correct Applicants' plans to reflect this change. This will be a condition of approval.

18. Turning to Applicant's requested variance for front yard setback, Mr. Murphy testified that the average front yard setback on Birch Road is 35 feet.

19. Mr. Murphy testified that the design of the proposed addition, which includes two (2) large gables in the front yard in a farmhouse-colonial style, necessitates the requested

variance.

20. There were no objections to the requested variance by the Board's professionals or members of the interested public.

CONCLUSIONS OF LAW

Based upon the foregoing findings, the Board makes the following conclusions of law:

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.

2. The variance requested by Applicant for maximum building coverage can be granted.

3. The enlargement and expansion of the dwelling proposed by Applicants will not result in a dwelling incompatible in appearance or lot location with other homes in the vicinity of the Property. The requested deviation from maximum building coverage is *de minimus* in nature.

4. The proposed enlargement and expansion will enhance Applicants' use and enjoyment of the dwelling. The improvements at the Property will enhance the diversity of the Township's residential housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

5. Based upon the foregoing, the benefits to be obtained from granting the variance for maximum building coverage outweigh any detriments which might result therefrom

6. The requested variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

7. Accordingly, the Board concludes that a variance for maximum building coverage shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

8. The variance requested by Applicant for minimum front yard setback can be granted.

9. As testified by Mr. Murphy, the proposed front yard setback deviations on Birch Road and Davis Avenue do not significantly depart from the prevailing setbacks of other lots in the neighborhood.

10. As discussed above, the improvements at the Property will enhance the diversity of the Township's residential housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

11. Based upon the foregoing, the benefits to be obtained from granting the variance for maximum building coverage outweigh any detriments which might result therefrom

12. The requested variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

13. Accordingly, the Board concludes that a variance for minimum front yard setback shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent and purpose of the Zoning Ordinance and the laws of the Township of Pequannock and whether the proposal is conducive to the orderly development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the variances requested by Applicant for maximum building coverage, and minimum front yard setback as outlined above. The Board voted on April 2, 2015

to approve the application for development as above described.

BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

1. Applicant shall submit proof of payment of all real estate taxes applicable to the property.

2. Applicant shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be numbered to indicate compliance with these conditions.

3. Applicant shall pay in a timely manner all outstanding and future fees, including, but not limited to, development fees, escrow charges, connection fees and usage fees, and shall post all performance and maintenance bonds and guarantees in connection with the review of this application prior and subsequent to the approval of this application.

4. Applicant shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearing(s) on the date(s) referred to above and shall comply with all reports and comments submitted by the Board's Planner and/or Engineer in connection with the application.

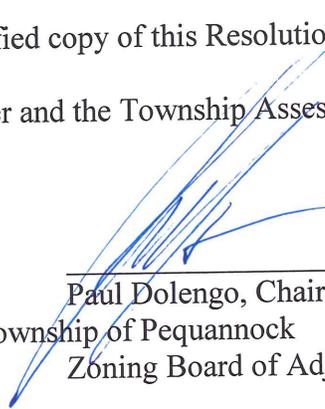
5. Applicant shall obtain the approval of any and all other necessary and appropriate City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.

6. Applicants' architect shall correct any and all errors or inconsistencies depicted on Applicants' plans, including, but not limited to, impervious coverage calculations.

7. Applicants' plans shall be revised to reflect any and all changes in the location and size of Applicants' proposed rear deck.

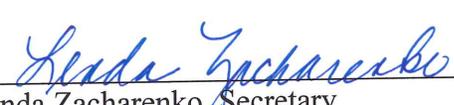
8. Applicants' architect shall file elevations of the first floor of the dwelling with the Board.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicants, the Township Clerk, the Township Engineer and the Township Assessor and make same available to all other interested parties.



Paul Dolengo, Chairman
Township of Pequannock
Zoning Board of Adjustment

I hereby certify this to be a true and accurate copy of a Resolution adopted by the Township of Pequannock Zoning Board of Adjustment, Morris County, New Jersey, at a public meeting held on May 7, 2015.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

The Vote on the Resolution to approve this Memorialization was as follows:

Yes: *Hebert, Imfeld, Skvarca, Mellerso, Vitcavich, Way, Dolengo*

No:

Abstain:

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION**

MORRIS COUNTY, NEW JERSEY

MATTER OF: John and Kristin Nacion

PROPERTY LOCATION: Block 2502, Lot 1, 57 Sunset Road

APPROVED: April 2, 2015

MEMORIALIZED: May 7, 2015

WHEREAS, John and Kristin Nacion (“Applicants”) have requested variances for maximum building coverage and minimum front yard setback to permit the construction of an addition to an existing residential dwelling on property located at 57 Sunset Road, known and designated as Block 2502, Lot 1 on the Tax Maps of the Township of Pequannock in the “R-11” zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on April 2, 2015; and

WHEREAS, the Board heard the testimony by Applicants, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicants filed an Affidavit of Proof that Notice of Hearing was given as required by law; and

WHEREAS, a complete application has been filed, the fees required by ordinance have been paid, and the jurisdiction and powers of the Board have been properly invoked and exercised;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with regard to the application.

1. Applicants provided adequate notice of the application and the hearing in accordance with the New Jersey Municipal Land Use Law (“MLUL”).
2. The Property, owned by Applicants, measures 7,812.49 square feet and is located

at Block 2502, Lot 1, 57 Sunset Road in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is undersized and square in shape and is located at the corner of Sunset Road and Washburn Road.

4. The Property is improved with a one (1) story dwelling and a 1.5 story masonry garage.

5. The Property has the following pre-existing, non-conforming conditions in the R-11 zone: minimum lot area (11,500 square feet required under the Township Zoning Ordinance (“Zoning Ordinance”), 7,812.49 square feet provided); minimum lot width (90 feet required, 62.5 feet provided); minimum front yard setback (50 feet required, 29.15 feet provided); minimum side yard setback (10 feet minimum one side yard, 25 feet both required, 4.89 one side provided, 30.51 feet both side yards); maximum building coverage (16% permitted, 24.8% provided); minimum lot frontage (90 feet required, 62.5 feet provided); and minimum accessory building setback (5 feet required, 2.8 feet provided).

6. Applicants seek to add a second level and a covered front porch to the dwelling.

7. To permit the requested development, Applicants seek variances to intensify the pre-existing non-conforming maximum building coverage condition (16 % required pursuant to the Township Zoning Ordinance (“Zoning Ordinance”), 25.78% provided) and the pre-existing non-conforming minimum front yard setback condition (50 feet required pursuant to the Zoning Ordinance, 23.80 provided).

8. Applicants’ proposal is depicted on a map prepared by Theodore J. Guis, P.E., entitled “Proposed Variance Map, 57 Sunset Road, Block 2502, Lot 1, Pequannock, New Jersey” consisting of one (1) sheet, dated January 15, 2015. Applicants also provided a Boundary and

Topography Survey prepared by Robert L. Cigol, P.L.S., consisting of one (1) sheet, dated September 30, 2013, and proposed architectural elevations of the dwelling, consisting of three (3) sheets, undated.

9. The Board also received a report from its Professional Planner, Eileen F. Banyra, P.P., A.I.C.P., dated March 12, 2015, the contents of which are incorporated herein by reference.

9. The Board heard the testimony of John Nacion, one of the Applicants.

10. Mr. Nacion testified that the existing dwelling on the Property measures slightly over 900 square feet. Mr. Nacion and his wife desire to add a second level and a front porch to the existing dwelling.

11. The Board heard the testimony of Theodore Guis, P.E., Applicants' Engineer.

12. Mr. Guis testified as to Applicants' site plans and requested variances.

13. Mr. Guis testified that, in his professional opinion, the Property has numerous non-conformities because it is probable that the Property pre-dates zoning regulation in the Township.

14. Other than the variances for maximum building coverage and minimum front yard setback, no other pre-existing non-conformities will be exacerbated by the proposed development.

15. Mr. Guis testified that Applicants have added seepage pits at the Property to contain said run-off.

16. Mr. Guis testified that Applicants will abandon their existing private septic system and disposal field and connect the Property to the public sewer system.

17. The Township and the Pequannock, Lincoln Park and Fairfield Sewerage Authority have formally advised that they have no objection to Applicants' connection to public

sewer.

18. Mr. Guis proffered, and the Board accepted as Exhibit A-1, an aerial photograph of the neighborhood where the Property is located.

19. Turning to the requested variance for building coverage, Mr. Guis testified that the net increase in building coverage by the proposed development would be only .9%

20. With regard to the front yard setback variance, Mr. Guis testified that Applicants' proposed front yard setback, though reduced by the proposed development, would not be substantially inconsistent with the other front yard setbacks on Sunset Road.

21. There were no objections to the requested variances by the Board's professionals or members of the interested public.

CONCLUSIONS OF LAW

Based upon the foregoing findings, the Board makes the following conclusions of law:

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.

2. The variance requested by Applicant for maximum building coverage can be granted.

3. The addition to be constructed by Applicants will result in a *de minimus* increase in building coverage from the existing non-conforming condition. There will no negative impact upon the Property or neighboring lots.

4. The addition will enhance Applicants' use and enjoyment of the dwelling. The improvements at the Property will enhance the diversity of the Township's residential housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

5. Based upon the foregoing, the benefits to be obtained from granting the variance

for maximum building coverage outweigh any detriments which might result therefrom

6. The requested variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

7. Accordingly, the Board concludes that a variance for maximum building coverage shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

8. The variance requested by Applicant for minimum front yard setback can be granted.

9. As testified by Mr. Guis, the proposed front yard setback deviation will not be a major departure from the setbacks of other lots on Sunset Road. The dwelling will remain compatible in appearance with other properties in the neighborhood.

10. The improvements at the Property will enhance the diversity of the Township's residential housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

11. Based upon the foregoing, the benefits of granting the variance for maximum building coverage outweigh any detriments.

12. The requested variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

13. Accordingly, the Board concludes that a variance for minimum front yard setback shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having

determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent and purpose of the Zoning Ordinance and the laws of the Township of Pequannock and whether the proposal is conducive to the orderly development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the variances requested by Applicant for maximum building coverage and minimum front yard setback as outlined above. The Board voted on April 2, 2015 to approve the application for development as above described.

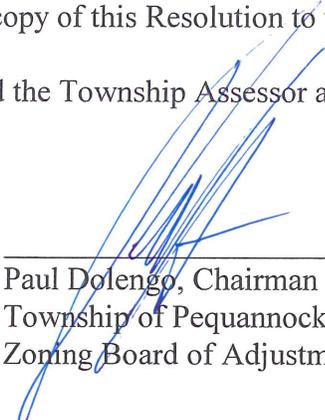
BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

1. Applicant shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicant shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be numbered to indicate compliance with these conditions.
3. Applicant shall pay in a timely manner all outstanding and future fees, including, but not limited to, development fees, escrow charges, connection fees and usage fees, and shall post all performance and maintenance bonds and guarantees in connection with the review of this application prior and subsequent to the approval of this application.
4. Applicant shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearing(s) on the date(s) referred to above and shall comply with all reports and comments submitted by the Board's Planner and/or Engineer in connection with the application.
5. Applicant shall obtain the approval of any and all other necessary and appropriate

City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.

6. Applicants' Engineer shall revise Applicants' site plan to (a) correctly depict the variances requested pursuant to the application; and (b) add the list of property owners within 200 feet of the Property.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicants, the Township Clerk, the Township Engineer and the Township Assessor and make same available to all other interested parties.



Paul Dolengo, Chairman
Township of Pequannock
Zoning Board of Adjustment

I hereby certify this to be a true and accurate copy of a Resolution adopted by the Township of Pequannock Zoning Board of Adjustment, Morris County, New Jersey, at a public meeting held on May 7, 2015.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

The Vote on the Resolution to
approve this Memorialization
was as follows:

Yes: *Hebert, Imfeld, Millens, Skvarca, Vitcavich, Way*
Dolego

No:

Abstain: