

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: L J & M J Inc. d/b/a All Service Contractors Equipment

PROPERTY LOCATION: Block 902, Lot 5, 770 Route 23

APPROVED: October 1, 2015

MEMORIALIZED: November 5, 2015

WHEREAS, L J & M J Inc. d/b/a All Service Contractors Equipment (“Applicant”) has requested preliminary and final site plan approval, a variance for expansion of a non-conforming use, dimensional variances for area of a freestanding sign, area of an attached sign and extension of an attached sign beyond the vertical wall of a building and approval for development in a flood plain on property located at 770 Route 23, known and designated as Block 902, Lot 5 on the Tax Maps of the Township of Pequannock (“Township”) in the Township’s “C-3” zone district (“Property”); and

WHEREAS, a public hearing on the application was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on October 1, 2015; and

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

WHEREAS, Applicant, represented by Frank Scangarella, Esq., 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. Applicant 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 Applicant, measures 2.49 acres and is located at Block 902, Lot 5, 770 Route 23 in the Township’s C-3 zone district.
3. The Property is presently improved with a building and related facilities used by a Applicant, and equipment rental business. The existing use is a non-conforming use in the C-3 zone.
4. Applicant previously received preliminary and final site plan approval, use variance relief pursuant to the MLUL, N.J.S.A. 40:55D-70 (d)(2) and (d)(3) and flood plain development approval from the Board on June 2, 2011, memorialized by a Resolution adopted by the Board on July 7, 2011.
5. The record of the Board’s June 2, 2011 proceedings and the contents of the July 7, 2011 Resolution are incorporated by reference herein as if set forth at length.
6. Applicant seeks to relocate an existing fence on the Property to a location 15 feet closer to Route 23 to increase Applicant’s storage area.
7. Relocation of the fence will also permit the installation of enhanced security equipment in the expanded storage area and allow the relocation of Applicant’s recyclables dumpster in that area.
8. Applicant also seeks to remove an existing freestanding pylon sign and replace same with a new sign on a larger foundation with increased height and size. Applicant further seeks to mount a sign on the roof of the building on the Property.
9. Applicant requires a use variance pursuant to N.J.S.A. 40:55D-70(d)(2) for the

expansion of a non-conforming use, the Applicant's outdoor storage. Presently, there are 29,973 square feet of outdoor storage, which, with the relocation of the fence, will increase to 31,323 square feet.

10. Applicant also requires bulk variances from the requirements of the Township Zoning Ordinance ("Zoning Ordinance") for area of a freestanding sign (50 square feet permitted, 99 square feet proposed), area of an attached sign (50 square feet permitted, 72 square feet proposed) and extension of an attached sign beyond the vertical wall of a building. Applicant further requires approval for development in a flood plain on the Property.

11. The Property has two (2) pre-existing, non-conforming conditions: lot area (4 acres required pursuant to the Zoning Ordinance, 2.49 acres provided) and front yard setback (75 feet required, 43.8 feet provided). Neither of these non-conforming conditions will be exacerbated by the proposed development.

12. Applicant's proposal is depicted on plans prepared by Darmofalski Engineering Associates, Inc. Paul P. Darmofalski, P.E. entitled "Proposed Site Plan for All Service Contractors Equipment, Block 902, Lot 5, situated in the Township of Pequannock, County of Morris, New Jersey" consisting of two (2) sheets, dated September 14, 2010, revised as of August 3, 2015.

13. Applicant also supplied a report entitled "Planning and Variance Report, All Service Equipment, Block 902, Lot 5, Township of Pequannock, New Jersey", prepared by Kenneth Ochab, P.P., consisting of nine (9) pages, dated July 27, 2015.

14. Applicant further supplied depictions of its proposed signage prepared by Butler Sign Company, consisting of three (3) sheets, dated November 14, 2014.

15. The Board received a report from the Township Planner, Jill A. Hartmann, P.P., A.I.C.P. dated September 28, 2015, the contents of which are also incorporated herein by reference.
16. Applicant's attorney, Mr. Scangarella, briefly summarized the application before the Board.
17. The Board heard the testimony of Mr. Darmofalski, Applicant's Engineer.
18. Mr. Darmofalski testified that Applicant, an equipment rental business, is seeking a modification of a site plan previously approved by the Board in 2011 (see Paragraphs 4 and 5 above).
19. Mr. Darmofalski testified that, because of equipment robberies at the Property and substantial losses therefrom, Applicant desires to increase the fenced-in portion of the Property by relocating its front fence 15 feet closer to Route 23, at the south of the Property.
20. The relocation of the fence will permit more items to be stored in a secure manner and will also permit Applicant to install enhanced security equipment in the larger fenced area.
21. In addition, Applicant's recyclables dumpster, presently in the front yard of the Property can be relocated to the fenced area in the rear of the Property, which will improve the appearance of the front yard and maximize available parking spaces.
22. Mr. Darmofalski testified that the relocated fence will be 6 feet in height, with "privacy slats". This will be a condition of approval.
23. Mr. Darmofalski testified that Applicant seeks to remove an existing pylon sign at the southeast entrance to the Property and replace same with a new 9 foot by 11 foot (99 square feet) pylon sign at a height of 20 feet, 3 inches from grade and 11 feet, 3 inches clearance

from the bottom of the sign to grade to promote better visibility of Applicant's facility. Said sign will have two (2) sides and internal lighting.

24. Applicant also desires to install a 6 foot by 12 foot (72 square feet) sign on the roof of its building.

25. The Township Planner, Ms. Hartmann, noted that Applicant's plans depicted a 20 foot high light pole in the rear of the Property but did not indicate that the illumination to be provided would be no greater than .5 foot candles to the Property line, as required by the Zoning Ordinance.

26. Mr. Darnofalski testified that the light pole would meet the aforesaid Zoning Ordinance standard and that Applicant's plans would be revised to indicate the foot candle illumination from the pole. This will be a condition of approval.

27. The Board heard the testimony of Alan Jordan, Applicant's owner.

28. Mr. Jordan testified that he had been robbed in June 2014, when perpetrators cut through the fence at the rear of the Property, stole a pickup truck, filled it with equipment from the Property and rammed through and knocked down the front gate of the fence.

29. The proposed changes to the site plan are designed to improve security at the Property and also make the Property substantially more visible from Route 23.

30. The Board heard the testimony of Christopher Fetchik, a representative of the Butler Sign Company.

31. Mr. Fetchik testified with regard to Applicant's proposed signage.

32. Applicant desires to remove its existing freestanding pylon sign, erect a higher sign with a larger foundation and increase the size of the sign. This will result in a more visible

sign on a stronger base.

33. With regard to Applicant's proposed roof-mounted sign, said sign will be attached by a bracket to the mansard roof of Applicant's building.

34. Mr. Fetchik testified that the new and larger signs, by increasing the visibility of Applicant's facilities, would promote motorist safety in the area of the Property.

35. The Township's Planner, Ms. Hartmann, noted that Applicant's plans showed a pre-existing, smaller "Stihl" sign attached to Applicant's building.

36. As only one (1) attached sign is permitted pursuant to the Zoning Ordinance, Ms. Hartmann suggested, and Applicant agreed, to remove this smaller sign. This will be a condition of approval.

37. The Board further suggested, and Applicant agreed, that Applicant's signage will be compatible and uniform in appearance.

38. The Board heard the testimony of Lisa Phillips, P.P., Applicant's Planner.

39. Ms. Phillips provided testimony in connection with the Planning and Variance Report prepared for Applicant by Kenneth Ochab, P.P. (see Paragraph 13 above).

40. Ms. Phillips testified that while Applicant requires a variance for expansion of a non-conforming use pursuant to N.J.S.A. 40:55D-70 (d)(2), the use is not being intensified. Rather, the requested expansion of the use is to enhance safety and security at the Property.

41. Ms. Phillips testified that the Property is situated in a natural "dip" or hollow space. This location affects Applicant's requested variances for signage.

42. Similarly, the design of the mansard roof on Applicant's building creates Applicant's need for the two (2) bulk variances for area of an attached sign and extension of an

attached sign beyond the vertical wall of a building.

43. Ms. Phillips argued that this roof design was an extraordinary and exceptional condition uniquely affecting the Property which would justify hardship variance relief under N.J.S.A. 40:55D-700©(1).

44. With regard to Applicant's requested variance for the area of its new free-standing pylon sign, Ms. Phillips testified that the increased height of the sign will provide greater clearance below the sign for improved visibility.

45. Ms. Phillips proffered, and the Board accepted as evidence, Exhibits A-1, A-2 and A-3, comprised of photographs of other signage at the Property.

46. Ms. Phillips testified that the Property is well kept. The lots on both sides of the Property are vacant and also have flood hazard designations. The lot to the immediate north of the Property is owned by the Township.

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. Applicant's preliminary and final site plan application conforms to the requirements of the Zoning Ordinance and will promote the purposes of the C-3 zone district as set forth in the Township's Master Plan.
3. The Property is uniquely suited to the existing use.
4. Accordingly, the Board concludes that the application for preliminary and final plan approval, as proposed, is in the public interest and is hereby granted, subject to any

conditions related thereto.

5. The variance requested by Applicant for expansion of a non-conforming use can be granted. Applicant has met its enhanced burden of proof for said relief.

6. Applicant's testimony and evidence persuasively show that the proposed expansion will enhance safety and security and reduce crime within and in the area of the Property. This promotes the purposes of the MLUL, N.J.S.A. 40:55D-2(a) and satisfies the "positive criteria" necessary to obtain use variance relief.

7. Applicant's testimony and evidence also persuasively show that the proposed expansion will not result in an intensification of the existing non-conforming use at the Property. The variance will not be detrimental to the public good and will not substantially impair the intent and purpose of the Township's Master Plan and Zoning Ordinance. This satisfies the "negative criteria" necessary to obtain use variance relief.

8. Accordingly, the Board concludes that a variance for expansion of a non-conforming use shall be and hereby is granted to Applicant pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(d)(2) subject to the conditions set forth below.

9. The dimensional variances requested by Applicant for area of a freestanding sign, area of an attached sign and extension of an attached sign beyond the vertical wall of a building can be granted.

10. As set forth in detail in Applicant's testimony and evidence, the signage to be installed will facilitate identification of the Property by motorists, thus enhancing traffic safety at and in the area of the Property. This is a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(a).

11. Based upon the foregoing, the benefits to be obtained from granting the variances outweigh any detriments which might result therefrom.

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

13. Accordingly, the Board concludes that variances from Zoning Ordinance requirements for area of a freestanding sign, area of an attached sign and extension of an attached sign beyond the vertical wall of a building shall be and hereby are granted to Applicant pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2) subject to the conditions set forth below.

14. The Board further concludes that approval shall be and hereby is granted to Applicant for development in a flood plain on the Property.

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 preliminary and final site plan approval, a variance for expansion of a non-conforming use pursuant to N.J.S.A. 40:55D-70(d)(2), dimensional variances for area of a freestanding sign, area of an attached sign and extension of an attached sign beyond the vertical wall of a building pursuant to N.J.S.A. 40:55D-70(c)(2) and approval for development in a flood plain to Applicant as outlined above. The Board voted on October 1,

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. Applicant shall comply with the comments and recommendations set forth in the September 28, 2015 report of the Township Planner, Ms. Hartmann.
7. Applicant shall continue to comply with the terms and conditions of the Board's

July 7, 2011 Resolution and any and all other development approvals for the Property except as modified by this Resolution.

8. Applicant shall relocate its recyclables dumpster to the fenced area at the rear of the Property.

9. Applicant shall remove the "Stihl" sign from the building.

10. The 20 foot light pole in the rear of Applicant's Property shall provide illumination at a level no greater than .5 foot candles to the Property line, as required by the Zoning Ordinance. Applicant's plans shall be revised to indicate the foot candle illumination from the pole.

11. Applicant's relocated fence shall be 6 feet in height, with "privacy slats".

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 November 5, 2015.

Linda Zacharenko
Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Robert, Angello, Wang, Bricever, Baterngo*

No:

Abstain:

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY**

MATTER OF: Frank Scangarella CS/IR Trust

PROPERTY LOCATION: Block 1906, Lot 9, 565 Newark Pompton Turnpike

APPROVED: October 1, 2015

MEMORIALIZED: November 5, 2015

WHEREAS, the Frank Scangarella CS/IR Trust (“Applicant”) has requested preliminary and final site plan approval, a use variance pursuant to N.J.S.A. 40:55D-70(d)(1) to create a ground floor apartment and a bulk variance for secondary front yard setback on property located at 565 Newark Pompton Turnpike, known and designated as Block 1906, Lot 9 on the Tax Maps of the Township of Pequannock (“Township”) in the Township’s “C-1” zone district (“Property”); and

WHEREAS, a public hearing on the application was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on October 1, 2015; and

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

WHEREAS, Applicant, represented by Frank Scangarella, Esq., 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. Applicant 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 Applicant, measures 21,872 square feet and is located at Block 1906, Lot 9, 565 Newark Pompton Turnpike in the Township’s C-1 zone district.
3. The Property, located at the corner of Newark Pompton Turnpike and Poplar Avenue is presently improved with a two (2) story masonry building, joined by a common wall to an adjacent 2 ½ story frame building. The 2 ½ story frame building (“Building”) will be the locus of the proposed development in the instant application.
4. Applicant seeks to convert a portion of the ground floor of the Building from use as a dental office to a one (1) bedroom residential apartment and install a porch and deck serving the apartment. However, first floor apartments are not permitted in the C-1 zone. Accordingly, Applicant will require a use variance pursuant to the MLUL, N.J.S.A. 40:55D-70 (d)(1) to effect the conversion.
5. Because of the addition of the porch and deck pursuant to the apartment conversion, Applicant will also require a secondary front yard setback variance from the requirements of the Township Zoning Ordinance (“Zoning Ordinance”) for the Building’s front setback from Poplar Avenue. Pursuant to the Zoning Ordinance, a secondary front yard setback of 25 feet is required. The Building has a setback of 15.8 feet on Poplar Avenue.
6. In addition to the conversion of the dental office to apartment use, Applicant intends to remove an existing at-grade patio.
7. Applicant also intends to install a 3-foot wide concrete pathway from the rear of the converted apartment to the Property’s rear parking lot and new landscaping in the form of nine (9) evergreen trees to provide a buffer along the Property’s Poplar Avenue frontage.

8. Other improvements to be installed by Applicant include two (2) new 12-foot light poles along the rear of the Property; four (4) new seepage pits and related storage tanks for roof and parking lot drainage; a 4-foot high privacy fence along the southern boundary of the Property; a brick planter; and fire thorn bushes.
9. The entire rear of the Property, where Applicant's existing parking area is located, will be reconstructed and re-paved. Utilities under the parking area will be abandoned in place.
10. The Property has two (2) pre-existing, non-conforming conditions: side yard setback (a minimum of 3 feet or .25 of lot width required under the Zoning Ordinance, 0 feet provided) and parking in the Property's front yard (prohibited by the Zoning Ordinance, but provided). Neither of these non-conforming conditions will be exacerbated by the proposed development.
11. Applicant's proposal is depicted on plans prepared by Darmofalski Engineering Associates, Inc. Paul P. Darmofalski, P.E. entitled "Proposed Addition & Site Plan for 565 Newark Pompton Turnpike, Block 1906, Lot 9, situated in the Township of Pequannock, County of Morris, New Jersey" consisting of three (3) sheets, dated November 28, 2014, revised as of August 6, 2015.
12. Applicant also supplied architectural drawings prepared by James P. Cuttillo Associates, James P. Cuttillo, R.A., P.P., consisting of two (2) sheets, with Sheet 1 dated January 21, 2015 and Sheet 2 dated August 6, 2015
13. Applicant also supplied a survey prepared by Boyce L. McGeoch, P.L.S., dated August 2014, revised as of October 2014, and a Planner's Report prepared by Thomas J. Scangarello, P.P., consisting of four (4) pages, dated April 10, 2015.

14. The Board received a report from the Township Planner, Jill A. Hartmann, P.P., A.I.C.P. dated September 28, 2015, the contents of which are also incorporated herein by reference.
15. Mr. Scangarella, the Attorney-In-Fact for the Frank Scangarella CS/IR Trust and the Applicant, briefly summarized the application before the Board.
16. Mr. Scangarella has owned the Property since 1960. The Property was once comprised of two (2) lots which were merged by the Township Tax Assessor 25 or 30 years ago.
17. Applicant desires to convert a former 720 square feet dental office, located on the ground floor of the Building, to an apartment which will also include a porch and a deck. Mr. Scangarella will live in the apartment.
18. The Board heard the testimony of Mr. Darmofalski, Applicant's Engineer.
19. Mr. Darmofalski testified that the Building was, for many years, configured with offices on the first floor and apartments on the second floor.
20. Mr. Darmofalski testified with regard to the plans he had prepared for Applicant and the architectural plans prepared by Mr. Cutillo
21. The converted apartment will have one (1) bedroom, a living room, kitchen, bathroom and portico. In addition, a 12' x 14' screened-in porch and 10' x 14' deck will be added to the Building and attached to the apartment.
22. Mr. Darmofalski testified that four (4) seepage pits and related storage tanks will be installed in the rear of the Property's parking area, and these will collect run-off from said parking area and the roofs of the buildings at the Property. The seepage pits and storage tanks will be connected to the Township sewer system.

23. Mr. Darmofalski testified that Applicant will be adding lighting at the Property in the form of two (2) new 12 foot high light poles with shielded light fixtures containing 175-watt bulbs.

24. Mr. Darmofalski testified that the only bulk variance required by Applicant is for secondary front yard setback, which is created by the proposed patio.

25. The Board heard the testimony of Thomas J. Scangarello, P.P., Applicant's Planner.

26. Mr. Scangarello testified with regard to the findings and conclusions set forth in his planning report (see Paragraph 13).

27. Mr. Scangarello testified that the proposed use variance will reduce the overall intensity of uses at the Property.

28. In addition, the proposed development will promote the public good through the upgrading of the Property through enhanced landscaping, upgrading of drainage facilities and connection to the Township sewer system.

29. Mr. Scangarello testified that the proposed development would also preserve the mixed use character and appearance of the Building and other structures at the Property, which furthers the intent and purpose of the Township's Master Plan.

30. It was Mr. Scangarello's professional opinion that the requested use variance can be granted without any negative impact on the Township's Master Plan and Zoning Ordinance.

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. Applicant's preliminary and final site plan application conforms to the requirements of the Zoning Ordinance and will promote the purposes of the C-1 zone as set forth in the Township's Master Plan.

3. The proposed use is particularly suited to the Property and existing uses thereon.

4. Accordingly, the Board concludes that the application for preliminary and final plan approval, as proposed, is in the public interest and is hereby granted, subject to any conditions related thereto.

5. The use variance requested by Applicant can be granted. Applicant has met the enhanced burden of proof set forth in the MLUL for said relief.

6. Applicant's testimony and evidence persuasively show that Applicant's conversion of the dental use to an apartment use and related enhancements will reduce the intensity of the existing use at the Property while improving the diversity of housing stock in the Township. This promotes the purposes of the MLUL, N.J.S.A. 40:55D-2(e) and (g).

7. The upgrading of drainage and parking facilities at the Property will also provide a material improvement to public health and safety at and in the area of the Property, also a purpose of zoning of the MLUL, N.J.S.A. 40:55D-2(a). Accordingly, the proposed development satisfies the "positive criteria" required for use variance relief.

8. Applicant's testimony and evidence also persuasively show that the requested use variance will not be detrimental to the public good and will not substantially impair the intent and purpose of the Township's Master Plan and Zoning Ordinance. This satisfies the "negative criteria" necessary to obtain use variance relief.

9. Accordingly, the Board concludes that a use variance to permit conversion of the existing dental use to an apartment use shall be and hereby is granted to Applicant pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(d)(1) subject to the conditions set forth below.

10. The variance requested by Applicant for secondary front yard setback can be granted.

11. The Property, as a corner lot, is uniquely burdened by having two (2) front yards. In addition, there is no adjacent property available for purchase which would bring the Property into compliance with these requirements.

12. In such circumstances, the strict enforcement of the secondary front yard setback requirement of the Zoning Ordinance would inflict an unreasonable hardship upon Applicant.

13. The variance requested will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

13. Accordingly, the Board concludes that a variance for secondary 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)(1).

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 preliminary and final site plan approval, a use variance to permit conversion of the existing dental use in the Building to an apartment use pursuant to N.J.S.A. 40:55D-70(d)(1) and a bulk variance for secondary front yard setback pursuant to N.J.S.A. 40:55D-70(c)(1) as outlined above. The Board voted on October 1, 2015 to approve the application for development as above described.

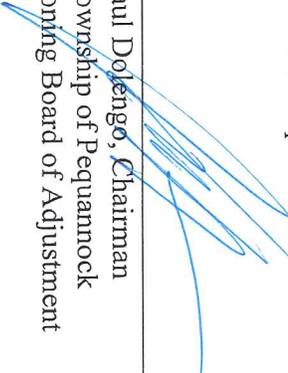
BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

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. Applicant shall comply with the comments and recommendations set forth in the September 28, 2015 report of the Township Planner, Ms. Hartmann.

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 Dolenko, 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 November 5, 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, Infield, King, Sweeney, Uttergo*

No:

Abstain:

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY**

MATTER OF: Alfonso and Ann Marie Ciampa

PROPERTY LOCATION: Block 3405, Lot 6, 43 Terhune Avenue

APPROVED: September 3, 2015

MEMORIALIZED: November 5, 2015

WHEREAS, Alfonso and Ann Marie Ciampa (“Applicants”) have requested a variance for maximum building coverage to permit the construction of a single-family residential dwelling on property located at 43 Terhune Avenue, known and designated as Block 3504, Lot 6 on the

Tax Maps of the Township of Pequannock in the “R-15” zone district (“Property”); and

WHEREAS, a public hearing on the application was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on September 3, 2015; and

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

WHEREAS, Applicants, represented by Steven C. Schepis, Esq., 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 15,000 square feet and is located at

Block 3504, Lot 6, 43 Terhune Avenue in the Township of Pequannock (“Township”) in the Township’s R-15 zone district.

3. Applicants are presently constructing a one and one-half (1 ½) story residential dwelling on the Property. Applicants previously demolished an existing residential dwelling thereon.

4. Applicants require a variance from the requirements of the Township Zoning Ordinance (“Zoning Ordinance”) for maximum building coverage to permit the construction of a one-story dwelling with a covered patio and replacement of a plastic shed and base with a wooden shed on a new, smaller concrete base on the Property. A maximum of building coverage of 15% is permitted pursuant to the Zoning Ordinance.

5. However, because of the proposed coverage of three hundred forty square feet (340 s.f.) of the patio in the Property’s rear yard, as well as the installation of the new wooden shed in the rear yard, Applicants propose building coverage of 17.6%.

6. Applicant’s proposal is depicted on plans prepared by MianECKI Consulting Engineers, Joseph S. MianECKI, Jr., P.E. entitled “Site/Zoning Plan, Alfonso Ciampa & Ann Marie Ciampa, 12 Robin Hood Way, Wayne, New Jersey 07470, Project Location: 43 Terhune Avenue, Block 3504, Lot 6, Township of Pequannock, Morris Co. New Jersey” consisting of four (4) sheets, dated May 4, 2015, revised as of July 31, 2015. Mr. MianECKI also provided building coverage calculations for the Property, consisting of one (1) page, dated September 3, 2015.

7. Applicant also provided architectural plans prepared by James P. Cuttillo Associates, James P. Cuttillo, R.A., P.P., consisting of six (6) sheets, dated January 5, 2015 and

revised as of June 3, 2015, and two (2) sheets, dated July 8, 2015. Applicant further supplied a Plot Plan prepared by Brian Murphy Architect, LLC, consisting of one (1) sheet, dated February 16, 2015, revised as of April 6, 2015.

8. The Board further received reports from the Township Planner, Jill A. Hartmann, P.P., A.I.C.P., dated August 31, 2015, and the Township Engineer, Joseph R. Golden, P.E., P.P., C.M.E., dated March 31, 2015, the contents of which are also incorporated herein by reference.

9. Applicant's attorney, Mr. Schepis, briefly summarized the application before the Board.

10. Mr. Schepis proffered, and the Board accepted in evidence, Exhibit A-1, a September 3, 2015 letter from Mr. Mianeki setting forth building coverage calculations for the Property (see also Paragraph #5 above).

11. The Board heard the testimony of James Cutillo, R.A. P.P., Applicant's Architect.

12. Mr. Cutillo proffered, and the Board accepted in evidence, Exhibit A-2, a Photo Array of eight (8) photographs of the Property at varying locations and angles, and Exhibit A-3, Applicant's construction plans as submitted to the Township in June 2015.

13. Mr. Cutillo testified as to Applicant's architectural plans.

14. Mr. Cutillo testified that the instant application is necessitated by Applicant's desire to cover its proposed rear patio and to install a wooden shed to replace a molded plastic shed, also in the Property's rear yard.

15. The Board heard the testimony of Alfonso Ciampa, the Applicant.

16. Mr. Ciampa testified as to the photographs contained in Applicant's Exhibit A-2.

17. Mr. Ciampa testified that the new house will include additional space for the use

of his mother. Mr. Ciampa would also like to include a covered porch at the rear of the Property so his mother and other family members will have an open-air weather-protected area in which to sit.

18. Mr. Ciampa testified that the new house is designed such that the sides of the house, or "legs" will hide the covered patio so it cannot be seen from the street. The patio will be accessed from the rear of the house. Mr. Cuttillo concurred with Mr. Ciampa's testimony.

19. The covered patio is intended to be used when temperatures permit. The patio will not be year-round enclosed living space.

20. The Board expressed concern that the dwelling might be increased in height and the patio fully enclosed. The Board proposed, and Applicant agreed, that the dwelling would not be increased in size beyond 1 ½ stories. This will be a condition of approval.

21. The Board also proposed, and Applicant agreed, that no more than three hundred forty square feet (340 s.f.) of the patio will be covered. This will be a condition of approval.

22. The Board further proposed, and Applicant agreed, that the patio will not be enclosed. This will be a condition of approval.

23. With regard to the proposed shed, Mr. Ciampa testified that the new shed, inclusive of the new, concrete pad, will not exceed fifty-two square feet (52 s.f.) in building coverage. This will be a condition of approval.

24. The Board further requested, and Applicant agreed, that to ensure that the foregoing conditions are on notice to all future purchasers and owners of the Property, a copy of this Resolution shall be recorded with the Morris County Clerk with the Deed for the Property. This will be a condition of approval.

25. Mr. Cuttillo testified as to the variance for maximum building coverage requested by Applicant.

26. Mr. Cuttillo testified that the proposed house and patio were modest in size and low in elevation. The requested variance for building coverage will enable limitation of the “massing” of the house, which will make the house more compatible with other houses in the neighborhood. The house is also of a design which minimizes any “sprawl” effect.

27. Mr. Cuttillo testified that the covered patio is a preferable alternative to other structures which might be used for protection from the sun, such as an awning.

28. Mr. Cuttillo testified that the patio, uncovered, is a permitted installation. Only the partial coverage of the patio is the subject of the variance request.

29. It was Mr. Cuttillo’s professional opinion that the requested variance advanced the purposes of the MLUL as set forth in N.J.S.A. 40:55D-2(g), by diversifying the Township’s housing stock, and N.J.S.A. 40:55D-2(i) by promoting a more desirable visual environment both at the Property and in the neighborhood.

30. No persons appeared in opposition to the application.

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. Applicant’s proposed partial coverage of its porch, though a violation of the

Zoning Ordinance, will not result in a negative impact upon the Property. In addition, the configuration of Applicant's house will screen the porch so it will not be visible from surrounding lots.

4. The new home to be constructed by Applicant will enhance the diversity of the Township's residential housing stock, a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(g).

5. The proposed development at the Property will also promote a more desirable visual environment both at the Property and in the neighborhood, a purpose of zoning set forth in the MLUL at N.J.S.A. 40:55D-2(i).

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

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

8. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for maximum building coverage shall be and hereby is granted to Applicant pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2) and subject to the conditions set forth below.

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

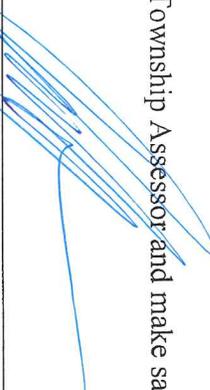
development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the variance requested by Applicant for maximum building coverage as outlined above. The Board voted on September 3, 2015 to approve the application for development as 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. Applicant shall comply with the comments and recommendations set forth in the August 31, 2015 report of the Township Planner and the March 31, 2015 report of the Township Engineer.
7. The house shall not exceed one and one-half (1 ½) stories.
8. No more than three hundred forty square feet (340 s.f.) of the patio in the rear yard shall be covered.
9. The porch shall not be enclosed.
10. Applicant's new shed, inclusive of the new concrete pad, shall not exceed a building coverage of fifty-two square feet (52 s.f.).
11. Applicant shall record a copy of this Resolution with the Morris County Clerk with the Deed for 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 November 5, 2015.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Robert, Wang, Bruce, Winstenberg, DeLongo*

No:

Abstain: