

TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Kelly and David Wisneski
PROPERTY LOCATION: Block 4302, Lot 5, 93 Mandeville Avenue
APPROVED: March 3, 2016
MEMORIALIZED: April 7, 2016

WHEREAS, Kelly and David Wisneski (“Applicants”) have requested variances for minimum accessory front yard setback and maximum building coverage to permit the construction of a new detached garage as part of an existing single-family residential dwelling on property located at 93 Mandeville Avenue, known and designated as Block 4302, Lot 5 on the Tax Maps of the Township of Pequannock in the R-9 zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on March 3, 2016; 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 10,000 square feet and is located at Block 4302, Lot 5, 93 Mandeville Avenue in the Township of Pequannock ("Township") in the Township's R-9 zone district.

3. The Property is square in shape and is located at the corner of Mandeville Avenue and John Street.

4. The Property is improved with a two (2) story dwelling with attached deck facing Mandeville Avenue and a detached garage facing John Street.

5. The Property has the following pre-existing, non-conforming conditions in the R-9 zone: minimum lot area (19,375 square feet required under the Township Zoning Ordinance ("Zoning Ordinance"), 10,000 square feet provided); minimum lot depth (125 feet required, 100 feet provided); minimum primary and secondary front yard setback (35 feet required, 20 feet primary setback and 14' 3" secondary setback provided); accessory building location and minimum accessory building side yard setback (5 feet required, less than 5 feet provided).

6. The aforesaid pre-existing, non-conforming conditions will not be exacerbated pursuant to the instant application.

7. Applicants seek to replace the existing detached garage and construct a new detached garage of similar size in the same general location.

8. To permit the requested development, Applicants seek variances for minimum accessory front yard setback (50 feet required pursuant to the Zoning Ordinance, 20 feet provided) and for maximum building coverage (17 % required pursuant to the Zoning Ordinance, 17.8% provided).

9. Applicants' proposal is depicted on plans prepared by James P. Cutillo,

Associates, James P. Cutillo, R.A., P.P, entitled "Variance Application for Mr. & Mrs. D. Wisneski, 93 Mandeville Avenue, Pequannock, NJ" consisting of one (1) sheet, dated October 28, 2015.

10. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated February 28, 2016, the contents of which are incorporated herein by reference.

11. The Board heard the testimony of Kelly and David Wisneski, the Applicants.

12. The Property and improvements thereon date to 1924 and pre-date the enactment of zoning regulations in the Township.

13. The existing detached garage was damaged during the Winter of 2015. Applicants seek to replace the garage in as close to the previous garage's location as possible.

14. The new garage, as proposed, will measure 22', 1" x 28' and will be 14' 6" in height.

15. The new garage will be a few feet deeper than the present garage to accommodate modern vehicles.

16. The requested minimum accessory front yard setback variance is necessitated by the location of the proposed garage on a corner lot.

17. The requested maximum building coverage variance is necessitated due to the existing uncovered deck attached to Applicants' dwelling.

18. The Board expressed concern that Applicants' driveway and the driveway's ingress and egress to the Property were not shown on Applicants' plans. The Board requested, and Applicants agreed, that Applicants would revise their plans to show the driveway and the

driveway's ingress and egress points on the Property. This will be a condition of approval.

19. 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 Applicants for minimum accessory front yard setback can be granted.
3. The Property, a corner lot, is impacted by an extraordinary and exceptional situation which cannot be remedied through the addition of additional land which would enable the Property to comply with the accessory front yard setback requirements of the Zoning Ordinance.
4. In light of such circumstances, strict enforcement of the accessory front yard setback requirements of the Zoning Ordinance would impose an unreasonable hardship upon Applicants.
5. The requested accessory front yard setback variance will not conflict with the purposes of the R-9 zone district.
6. The variance will not be detrimental to the Township Master Plan or Zoning Ordinance.
7. Accordingly, the Board concludes that a variance for minimum accessory 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).

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

9. The new detached garage to be constructed by Applicants will require a very modest deviation from the maximum building coverage requirements of the Zoning Ordinance. The deviation will not result in a detrimental impact upon the Property or adjacent lots.

10. The replacement of a damaged garage of outdated size and design with a new and more useful garage which can accommodate modern vehicles will promote public safety and welfare at the Property. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(a).

11. The replacement of the garage will also promote a more desirable visual environment at the Property, a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(i).

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

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

14. 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).

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 minimum accessory front yard setback and maximum building coverage as outlined above. The Board voted on March 3, 2016 to approve the application for development as above described.

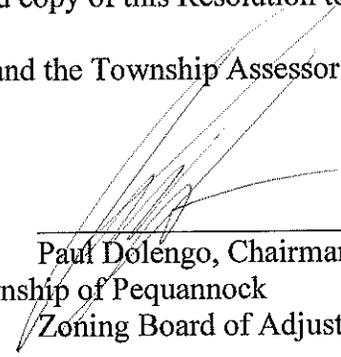
BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

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

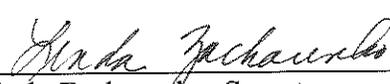
6. Applicants shall revise their plans to show the driveway and the driveway's ingress and egress points on the Property.

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 April 7, 2016.

 4/12/16

Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Hebert, Amfeld, Spourca, Vitcanich, Way,
Wintenberg & Balengo*

No:

Abstain: