

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Pompton Plains Reformed Bible Church

PROPERTY LOCATION: Block 303, Lots 14 and 9, 415 Boulevard

APPROVED: May 5, 2016

MEMORIALIZED: June 2, 2016

WHEREAS, Pompton Plains Reformed Bible Church (“Applicant”) has requested preliminary and final site plan approval, variances for deviation from conditional use standards for minimum lot area and minimum lot width pursuant to N.J.S.A. 40:55D-70(d)(3), and variances for provision of shade or ornamental trees to screen a parking lot from an adjacent street, for parking in the front yard setback for a conditional use in a residential zone, for front yard parking, for landscaping or screening along Boulevard frontage, for provision of interior parking lot landscaping between parking rows and for fencing height pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the development of properties known and designated on the Tax Lots of the Township of Pequannock (“Township”) as Block 303, Lot 14, 2 Pearl Avenue, and adjacent Block 303, Lot 9, 415 Boulevard (said lots to also be merged and hereafter known as “Property”), and use of the former lot at 2 Pearl Avenue as a parking area serving the church located at 415 Boulevard, with the Property located in the Township’s R-15 zone district; and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on May 5, 2016; and

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

WHEREAS, Applicant 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, N.J.S.A. 40:55D-1 et seq. (“MLUL”).
2. The Property, owned by Applicant, is comprised of two (2) adjacent lots to be merged as a condition of approval (see also Paragraph 3). Block 303, Lot 9 is the present location of Applicant’s Pompton Plains Reformed Bible Church, a permitted conditional use. Block 303, Lot 14, a corner lot, measures 22,311.59 square feet and is improved with a one (1) story residential dwelling. Both properties are located in the Township’s R-15 zone district.
3. Applicant proposes to demolish the residence on Block 303, Lot 14 and utilize the lot for a parking area for the church on Block 303, Lot 9. These two (2) lots will then be merged into a single lot. This will be a condition of approval.
4. The parking area will have forty-four (44) parking spaces with landscaping and other improvements. A new driveway cut-in will be created on the southern portion of Block 303, Lot 14.
5. To permit the requested development, Applicant requires variances for deviation from the conditional use standards of the Township Zoning Ordinance (“Zoning Ordinance”) for minimum lot area and minimum lot width pursuant to N.J.S.A. 40:55D-70(d)(3).

6. Applicant also requires variances from Zoning Ordinance requirements for provision of shade or ornamental trees to screen a parking lot from an adjacent street, for parking in the front yard setback for a conditional use in a residential zone, for front yard parking, for landscaping or screening along Boulevard frontage, for provision of interior parking lot landscaping between parking rows and for fencing height pursuant to N.J.S.A. 40:55D-70(c)(2).

7. Applicant's proposal is depicted on plans prepared by Darmofalski Engineering Associates, Inc., Paul P. Darmofalski, P.E., entitled "Proposed New Parking Area for Pompton Plains Reformed Bible Church, Block 303, Lot 14, situated in the Township of Pequannock, County of Morris, New Jersey" consisting of nine (9) sheets, dated December 2, 2015.

8. The Board also received reports from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated May 4, 2016, and the Township Engineer, Joseph R. Golden, P.E., P.P., C.M.E, dated April 15, 2016, the contents of which are incorporated herein by reference.

9. Applicant's attorney, Thomas J. Molica, Jr., Esq., briefly summarized the application.

10. Mr. Molica stated that if the Board approved the application, Applicant intended to merge Block 303, Lot 9 and Block 303, Lot 14 into a single lot via a deed of merger.

11. Mr. Molica stated that upon the merger of the two (2) lots, the newly combined lot should satisfy all conditional use requirements. However, Applicant had elected to file its application prior to effectuating said merger, which causes the need for the aforementioned variance relief pursuant to N.J.S.A. 40:55D-70(d)(3).

12. The Board's Planner, Ms. Hartmann, advised Applicant that when Block 303, Lot 9 and Block 303, Lot 14 were merged, Applicant must file an updated site plan depicting all development on the merged lot. This will be a condition of approval.

13. Mr. Molica stated that the proposed development would enable Applicant to accommodate nearly all of its parking needs on the merged lots. This will substantially eliminate the need for members of the Church's congregation to park on nearby streets and walk to the church, and should enhance safety in the area of the Property.

14. The Board heard the testimony of Paul Darmofalski, P.E., Applicant's Planner and Engineer. Mr. Darmofalski's qualifications as an expert in the field of civil engineering and professional planning were recognized and accepted by the Board.

15. Mr. Darmofalski testified that at present, Applicant's church was heavily utilized, requiring Applicant and its parishioners to use street parking to attend Church services and events.

16. Mr. Darmofalski testified that the Applicant's plans provide significantly more parking for the Applicant and its parishioners to use to attend Church services and events.

17. Mr. Darmofalski testified that in connection with the conversion of Block 303, Lot 14 for parking purposes, Applicant will install numerous improvements on that lot, including landscaping, curbing, fencing, lighting and drainage.

18. Mr. Darmofalski testified that the parking area will be used exclusively for Church members. Though a new driveway cut-in will be created on the southern portion of Block 303, Lot 14, access to and from the parking area will be through the aisles, driveways and lanes of the existing Church parking lot. Parking spaces will be 9 feet by 18 feet.

19. As a result of the addition of the new parking area, 120 total parking spaces will be located on the Property.

20. Mr. Darmofalski testified that Applicant would comply with the comments and recommendations set forth in the May 4, 2016 report of Ms. Hartmann and the April 15, 2016 report of Mr. Golden. This will be a condition of approval.

21. Mr. Darmofalski testified as to the variances required by Applicant for provision of shade or ornamental trees to screen a parking lot from an adjacent street (Pearl Avenue), for landscaping or screening along Boulevard frontage and for provision of interior parking lot landscaping between parking rows.

22. Mr. Darmofalski testified that though a variance would still be needed, Applicant would add adequate screening on Pearl Avenue and along the west side of the Property to address concerns in this area.

23. With regard to landscaping on the Boulevard, Mr. Darmofalski testified that, at present, landscaping on the Boulevard is generally limited by the County of Morris. County open space is located in that area to ensure safe ingress and egress from Boulevard properties.

24. Mr. Darmofalski testified that the planting of buffers and other interior parking lot landscaping between parking rows was impractical, given the moderate size of the new parking area. Strict enforcement of such a requirement would negatively impact pedestrian and traffic safety in the parking area. Also, other landscaping improvements to be installed by Applicant would improve the overall appearance of the parking area and make landscaping between parking rows unnecessary.

25. On the issue of drainage, Mr. Darmofalski testified that Applicant will install a new infiltration system under the pavement in the new parking area, and will also tie into the County storm water system. Mr. Darmofalski further testified that Applicant's plans meet all applicable storm water drainage requirements.

26. Mr. Darmofalski testified as to Applicant's lighting plan. Lighting fixtures at the property lines and along Pearl Avenue will be shielded and will have an intensity of ½ footcandle at ground level. The lighting fixtures will be mounted on shielded 12 foot high poles and controlled by a photocell and timer. Mr. Darmofalski testified that Applicant will use the lighting only as needed and does not expect to use the lighting every evening.

27. With regard to Applicant's landscaping plan, Mr. Darmofalski testified that Applicant will provide a buffer of evergreen plantings and a six foot (6') high fence on the west side of the Property. A hedge row of box woods will also be planted to prevent headlight glare on the property at adjacent 4 Pearl Avenue.

28. Mr. Darmofalski testified that Applicant would plant either deciduous trees, bushes or flowering trees (or a combination of same) in the front yard of the Property.

29. Mr. Darmofalski requested the assistance and approval of Township professionals determining the location and amount of landscape screening for the Property. Applicant agrees that said assistance and approval is required in advance of and during Applicant's installation of plantings. Mr. Darmofalski further testified that Applicant's landscaping plan will be enhanced as necessary. This will be a condition of approval.

30. Mr. Darmofalski proffered, and the Board accepted into evidence as Exhibit A-1, Applicant's concept plan depicting the Property after the completion of development.

31. Mr. Darmofalski testified that in his expert opinion, Applicant had satisfied its burden of proof to obtain its requested variances from conditional use requirements. Mr. Darmofalski further testified that the proposed use of the Property as a house of worship with an expanded interior parking lot to accommodate its parishioners is inherently beneficial.

32. In addition, Mr. Darmofalski testified that the application and Applicant's use of the Property remain compatible with the other uses in the R-15 Zone. The Property continues to be an appropriate site for the Applicant's use, and that the Applicant's technical non-compliance with the minimum lot size and minimum lot width conditions (pre-lot merger) does not affect the suitability of the Property for the Applicant's use.

33. Mr. Darmofalski testified that the merged lot can accommodate any and all potential problems associated with its use as a house of worship with an interior parking lot, even though prior to the required merger, Block 303, Lot 14 does not technically meet the minimum lot size and minimum lot width requirements.

34. Mr. Darmofalski reiterated his testimony that the technical deviations from the conditional use standards for minimum lot size and minimum lot width are cured by the proposed lot merger, and that the Property has historically accommodated parking, ingress and egress, and traffic issues. In light of these facts, it was Mr. Darmofalski's professional opinion that the proposed development shall serve to further enhance the Applicant's ability to accommodate such issues.

35. Mr. Darmofalski testified that in his expert opinion, the variances sought by Applicant for front yard parking, for landscaping or screening along Boulevard frontage, and for provision of interior parking lot landscaping between parking rows should be granted pursuant to

N.J.S.A. 40:55D-70c(2), since the purposes of the MLUL would be advanced by the proposed variance relief, the variances could be granted without substantial detriment to the public good and the benefits of the proposed variances substantially outweigh any and all potential detriments thereof.

36. Mr. Darmofalski testified that numerous MLUL purposes are advanced by the aforesaid N.J.S.A. 40:55D-70(c)(2) variances, including those purposes set forth in N.J.S.A. 40:55D-2 (a), (b), (c), (e) and (i). Mr. Darmofalski also explained the requested variances advanced various purposes and community development objectives inherent in the Zoning Ordinance, including those articulated in Zoning Ordinances §189.01.010B(1)and B(6) and §189.01.020H.

37. Mr. Darmofalski opined that the benefits to be provided by the requested N.J.S.A. 40:55D-70(c)(2) variances include a well-buffered and screened parking lot with a sufficient number of parking stalls to accommodate the needs of Applicant's membership, with appropriate ingress and egress points and a well-designed traffic flow that will improve site conditions and greatly reduce the use of adjacent public streets for parking.

38. The Board opened the meeting to the public and Mr. Randal Hackett, 407 Boulevard, Ms. Pat Horner, 4 Pearl Avenue and Ms. Doreen Hackett, 407 Boulevard, provided comments and questions to the Board and Mr. Darmofalski.

39. Mr. and Mrs. Hackett indicated that while they did not necessarily oppose or object to the application, they had concerns about the visibility of the parking lot and the proposed landscaping.

40. As a result of the comments of Mr. and Mrs. Hackett, the Board requested, and Applicant agreed, that Applicant's landscaping plan would be subject to the review and approval of the Board's Planner, Ms. Hartmann, and with Mr. and Mrs. Hackett. This will be a condition of approval.

41. Ms. Horner expressed her desire that the fencing to be installed on the Property be chain link at a height of four (4) to six (6) feet, in a black color.

42. As a result of the comments of Ms. Horner, the Board requested, and Applicant agreed, that fencing installed on the Property will be open in design, comprised of black chain link of a height between 4 and 6 feet. Mr. Darmofalski testified that this requires further variance relief, which could be granted to Applicant based upon the reasons he had previously testified to in support of the other variances requested by Applicant under N.J.S.A. 40:55D-70(c)(2). This will be a condition of approval.

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 site plan conforms to the requirements of the Township Zoning Ordinance and will promote the purposes of the R-15 zone district as set forth in the Township's Master Plan.
3. The proposed conditional use is consistent with the goals set forth in the Township's Master Plan for the R-15 zone district, and Applicant's use of the Property will remain compatible with the other uses in the zone.

4. The Property continues to be an appropriate site for Applicant's use, and Applicant's technical non-compliance with the minimum lot size and minimum lot width conditions (which will be rectified by the required merger of Block 303, Lot 14 and Block 303, Lot 9) does not affect the suitability of the Property for Applicant's use.

5. Furthermore, Applicant demonstrated through testimony and evidence that the Property can accommodate any and all potential parking and traffic problems associated with the Property's use as a house of worship.

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

7. The variances requested by Applicant from the conditional use standards of the Zoning Ordinance for minimum lot area and minimum lot width can be granted.

8. The deviations from minimum lot area and width on existing Block 303, Lot 14 and negative conditions caused thereby will be eliminated by Applicant's merger of Block 303, Lot 14 with Block 303, lot 9, where the church is located.

9. Accordingly, variances from conditional use standards for minimum lot area and minimum lot width shall be and hereby are granted to Applicant pursuant to N.J.S.A. 40:55D-70(d)(3).

10. The variances requested by Applicant from Zoning Ordinance requirements for provision of shade or ornamental trees to screen a parking lot from an adjacent street, for parking in the front yard setback for a conditional use in a residential zone, for landscaping or screening

along Boulevard frontage and for provision of interior parking lot landscaping between parking rows can also be granted

11. The requested variances will permit the construction of a new parking area which will enable Applicant to provide on-site parking to nearly all of its members and for nearly all of its church events.

12. The new parking area will alleviate the present problem of many church members parking off-site for services and other events. This will promote pedestrian and traffic safety, a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(a).

13. The requested variances will not conflict with the purposes of the R-15 zone district. Applicant has requested the participation of Township staff in the resolution of landscaping issues on the Property and the mitigation of the impact of said landscaping on adjacent lots, which will be a condition of approval.

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

15. The variances will not be detrimental to the Township Master Plan or Zoning Ordinance.

16. Accordingly, the Board concludes that variances from Zoning Ordinance requirements for provision of shade or ornamental trees to screen a parking lot from an adjacent street, for parking in the front yard setback for a conditional use in a residential zone, for landscaping or screening along Boulevard frontage and for provision of interior parking lot landscaping between parking rows shall be and hereby are 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 Applicant preliminary and final site plan approval, variances from conditional use standards for minimum lot area and minimum lot width pursuant to N.J.S.A. 40:55D-70(d)(3), and variances for provision of shade or ornamental trees to screen a parking lot from an adjacent street, for parking in the front yard setback for a conditional use in a residential zone, for landscaping or screening along Boulevard frontage, for provision of interior parking lot landscaping between parking rows and for fencing height pursuant to N.J.S.A. 40:55D-70(c)(2) as outlined above. The Board voted on May 5, 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. 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. Applicant shall also 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 merge, by Deed, Block 303, Lot 14 and Block 303, Lot 9 into a single lot. The form and content of the Deed of merger shall be subject to the review and approval of the Board Attorney, and the metes and bounds description shall be subject to the review and approval of the Township Engineer.

7. Subsequent to the merger of Block 303, Lot 14 and Block 303, Lot 9, Applicant shall prepare and file an updated site plan depicting all development on the merged lot.

8. Applicant shall enhance the landscaping on the merged lot.

9. In determining the location and amount of enhanced landscaping and screening for the merged lot, Applicant shall act in consultation with, and subject to the approval of, Township professionals before and during Applicant's installation of plantings.

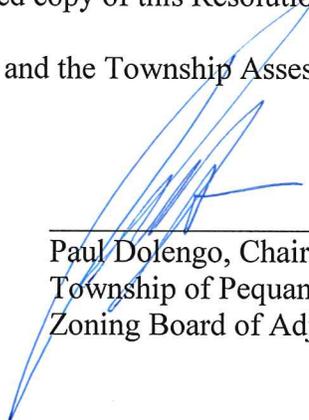
10. Applicant's updated landscaping plan shall be subject to the review and approval of the Board's Planner, Ms. Hartmann, and shall be revised in consultation with Mr. and Mrs. Hackett.

11. Any fencing installed on the Property by Applicant shall be open in design, comprised of black chain link and of a height between 4 and 6 feet.

12. Applicant shall revise the zoning tables on its site plan to depict site conditions and dimensions subsequent to the lot merger.

13. Applicant's lighting on Pearl Avenue shall be shielded.

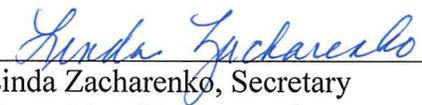
BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicants, the Township Clerk, the Township Engineer and the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



Paul Dolengo, Chairman
Township of Pequannock
Zoning Board of Adjustment

6/10/16

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 June 2, 2016.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

6/10/16

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

Yes: *Hebert, Melleno, Way, Arrese, Wintenberg, Soler*

No:

Abstain: