

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT**  
**RESOLUTION OF MEMORIALIZATION**  
**MORRIS COUNTY, NEW JERSEY**  
**MATTER OF:** Alfonso and Paula Cilibrasi  
**PROPERTY LOCATION:** Block 701, Lot 5, 396 Boulevard  
**APPROVED:** July 21, 2016  
**MEMORIALIZED:** August 4, 2016

**WHEREAS**, Alfonso and Paula Cilibrasi (“Applicants”) have requested variances for minimum front yard setback, minimum side yard setback, minimum combined side yard setback and maximum building coverage to permit the construction of a one (1) and two (2) story addition and related improvements to an existing 1½ story single-family residential dwelling on property located at 396 Boulevard, known and designated as Block 701, Lot 5 on the Tax Maps of the Township of Pequannock in the R-15 zone district (“Property”); and

**WHEREAS**, public hearings was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on April 7, May 5, and July 21, 2016; 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 Patrick C. DeMarco, 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, N.J.S.A. 40:55D-1 et seq. (“MLUL”).

2. The Property, owned by Applicant, measures 13,444 square feet, is irregular in size and shape and is located at Block 701, Lot 5, 396 Boulevard in the Township of Pequannock (“Township”) in the Township’s R-15 zone district.

3. The Property is improved with a four (4) bedroom, one and one-half (1 ½) story residential dwelling which has an attached one and one half (1 ½) car garage. A shed and paver patio are located in the rear of the Property.

4. The Property has two (2) pre-existing, non-conforming conditions in the R-15 zone, minimum lot size (15,000 square feet required under the Township Zoning Ordinance (“Zoning Ordinance”), 13,444 square feet provided) and minimum lot depth (150 feet required, 125 feet provided). These pre-existing, non-conforming conditions will not be exacerbated by the proposed development.

5. Applicant proposes the construction of a one (1) and two (2) story addition on the eastern side of the existing dwelling. The first floor portion of the addition will consist of a new dining area off the existing kitchen, two (2) new porches and a three and one half (3 ½) car garage. The second floor portion of the addition will be comprised of a master bedroom suite with a separate bedroom, living room, full bathroom and a stairway from the living room to the new garage, three (3) new bedrooms, a study alcove, another full bathroom and a laundry room.

6. To permit the requested development, Applicant seeks variances for minimum front yard setback (50 feet required pursuant to the Zoning Ordinance, 49.6 feet existing, 45.6 feet proposed); minimum side yard setback (15 feet required, 23.1 feet existing, 9.43 feet

proposed); minimum combined side yard setback (35 feet required, 32.6 feet proposed) and maximum building coverage (15 % permitted pursuant to the Zoning Ordinance, 17.4% provided).

7. Applicant's proposal is depicted on plans prepared by GC Stewart Associates, Charles J. Stewart, P.E., P.L.S., entitled "Map Showing Proposed Addition, Block 701 - Lot 5, No. 396 Boulevard, Township of Pequannock, Morris County, New Jersey" consisting of one (1) sheet, dated October 14, 2015, revised as of May 11, 2016.

8. Applicant also submitted proposed architectural elevations of the proposed addition prepared by Mileto-Godsall Associates LLC, Frank D. Mileto, A.I.A., entitled "Proposed Alteration & Addition to Residence For Alfonzo and Paula Cilibrasi, 396 Boulevard, Pequannock Township, N.J.", consisting of six (6) sheets, dated January 14, 2016, revised as of May 25, 2016.

9. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated April 6, 2016, the contents of which are incorporated herein by reference.

10. At the Board's April 7, 2016 meeting, Applicant's attorney, Mr. DeMarco, briefly summarized the application.

11. The Board heard the testimony of Alfonso Cilibrasi, the Applicant.

12. Mr. Cilibrasi described the proposed first floor addition, which will be built over an existing concrete patio. The addition will add space to the existing garage, which is very small and will not fit modern vehicles.

13. The proposed addition will add sufficient space to permit the storage of two (2) additional vehicles. Mr. Cilibrasi testified that he did not intend to use the garage for storage of

more than two (2) vehicles at any time, with the remaining garage space devoted to other storage needs.

14. Mr. Cilibrasi further testified that the first floor addition will include a breakfast area which will project nine feet, four inches (9' 4") into the Property's rear yard. At present, the existing dwelling does not have a breakfast area.

15. In addition, the space used for an existing 9' x 11' bedroom on the first floor will be converted to living space, with the bedroom to be relocated to the second floor with the dwelling's other bedrooms.

16. Mr. Cilibrasi testified that the second floor addition will be the location of all four (4) of the dwelling's bedrooms. The second floor addition will include a master bedroom suite with a bedroom, full bathroom and its own living room, with a stairway extending from the living room to the new garage.

17. Three (3) new bedrooms, a study alcove, a second full bathroom and a laundry room will also be located on the second floor.

18. The Board and its Planner, Ms. Hartmann, expressed substantial concern with Applicant's location of stairs from the garage to the second floor master bedroom suite, which the Board believed would create the equivalent of a separate apartment at the Property, which is prohibited in the R-15 zone under §189.03.040 of the Zoning Ordinance.

19. Mr. Cilibrasi denied that the master bedroom suite would be used as a separate apartment. On the advice of Mr. DeMarco, Mr. Cilibrasi testified that he would agree to a condition of approval which would prohibit use of the master bedroom as a separate apartment or rented rooms. This will be a condition of approval.

20. Because of the Board's concerns regarding the use of the proposed master bedroom suite as an apartment, as well as more general concerns as to intensity of the proposed development, Applicant was asked to engage its planner to present expert planning and or architectural testimony in support of the application, with the application being adjourned to the Board's May 5, 2016 regular monthly meeting.

21. The Board also directed Applicant to provide a current survey for the Property at the May meeting.

22. At the Board's May 5, 2016 hearing, Applicant and Applicant's Architect, Frank D. Mileto, A.I.A., appeared. Applicant also submitted two (2) new architectural drawings prepared by Mr. Mileto, replacing Applicant's previous Drawings Nos. 5 and 6.

23. Mr. Mileto testified that Applicant had no intention of using the second floor master bedroom suite as an apartment. The staircase which will provide access from the garage to the second floor master bedroom will not be private but rather will be an open staircase. In addition, there is only one (1) kitchen in the dwelling.

24. Mr. Mileto testified that Applicant's intention is to enlarge and reconfigure the dwelling to make it more comfortable for multiple generations, including Applicant, his wife and children, Applicant's father, who is age 83 and resides full-time in the dwelling, and Applicant's in-laws, who live in the dwelling in the Summer months.

25. Mr. Mileto testified that the design of the addition and related revisions to the dwelling's proposed stairway encourages free movement therein by all family members.

26. Mr. Mileto testified that the entire dwelling will be upgraded to meet all applicable code requirements.

27 Applicant further offered to place a deed restriction on the Property limiting the dwelling to one (1) family use and prohibiting use of the master bedroom suite as an apartment, with said restriction to be recorded with the Morris County Clerk, subject to the review and approval of the Board Attorney. Such a deed restriction, in conjunction with the condition of approval discussed above, will permit enforcement of the apartment prohibition by either the Township or neighboring property owners. This will be a condition of approval.

28. Mr. Mileto testified as to the variances requested by Applicant.

29. Mr. Mileto testified that, in his professional opinion, the Property's irregular shape creates hardships for Applicant in connection with its request for variances for minimum side yard setback and minimum combined side yard setback.

30. Mr. Mileto further opined that the undersized dimensions of the Property are a significant factor in creating the need for the building coverage variance requested by Applicant.

31. The Board expressed concern regarding the size of Applicant's proposed garage and the side yard setback deviation it caused. The Board requested that Applicant consider a reconfiguration of the garage to increase this setback to ten feet (10'). Mr. Mileto agreed to review and revise Applicant's plans to increase the setback as requested.

32. The application was then adjourned to the Board's July 21, 2016 regular monthly meeting.

33. At the Board's July 21, 2016 meeting, Applicant and Mr. Mileto again appeared.

34. Mr. Mileto testified that he had revised Applicant's plans to increase the side yard setback in the area of the garage from 9.43 feet to 10 feet and to eliminate a two foot (2') projection of the garage, slightly reducing building coverage from 17.4% to 17.3%.

35. There were no objections to the requested variances by 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 minimum front yard setback can be granted.
3. While the proposed front yard setback violation further violates an existing non-conforming setback condition, the resulting front yard setback will remain compatible with front yard setbacks on adjacent lots, as well as other lots in the vicinity of the Property.
4. The requested variance will permit the enhancement and re-configuration of an existing dwelling which will add diversity to the Township's housing stock. The improved dwelling will allow members of Applicant's family to "age in place" with the support and assistance of family rather than to be placed in an assisted living facility or nursing home. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).
5. The upgrading of the dwelling also promotes 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).
6. The requested minimum front yard setback variance will not conflict with the purposes of the R-15 zone district.
7. Based upon the foregoing, the benefits to be obtained from granting the variance for minimum front yard setback outweigh any detriments which might result therefrom.

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

9. Accordingly, the Board concludes that a variance for minimum front yard setback of 45.6 feet shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

10. The variances requested by Applicant for minimum side yard setback and combined minimum side yard setback can be granted.

11. As testified to by Mr. Mileto, the material setback deficiency on the south side of the Property is caused by the unique size and shape of the Property. Said irregular size and shape also impacts the combined side yard setback deficiency. This is an extraordinary and exceptional situation which uniquely burdens the Property.

12. No additional land is available for purchase by Applicant which would enable the Property to be brought into further compliance with the setback requirements of the Zoning Ordinance.

13.. Under these circumstances, to strictly enforce the Zoning Ordinance requirements for minimum side yard setback and combined minimum side yard setback would impose an undue hardship upon the Applicant and prevent a substantial upgrade of a permitted use.

14.. The variances requested will not negatively impact the Township's Master Plan or Zoning Ordinance. The proposed expansion is well conceived and the development will not result in the dwelling becoming incompatible with residential uses located in either the surrounding neighborhood or the R-15 zone.

15. Accordingly, the Board concludes that variances for minimum side yard setback

of 10 feet and combined minimum side yard setback of 32.6 feet shall be and hereby are granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(1).

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

17. As set forth in Applicant's exhibits and Mr. Mileto's testimony, the irregular size and shape of the Property are a significant factor in the building coverage deficiency.

18. As discussed above, additional land is not available for purchase which would permit Applicant to bring the Property into further compliance with the building coverage requirements of the Zoning Ordinance.

19. Under these circumstances, to strictly enforce the Zoning Ordinance requirements for maximum building coverage would impose an undue hardship upon the Applicant and prevent a substantial upgrade of a permitted use.

20. The variance requested will not negatively impact the Township's Master Plan or Zoning Ordinance. Applicant's proposed development will result in a substantial upgrade of the Property and will also advance the purposes of the MLUL by allowing members of Applicant's family to "age in place" with the support and assistance of family rather than to be placed in an assisted living facility or nursing home. N.J.S.A. 40:55D-2(g).

21. Accordingly, the Board concludes that a variances for maximum building coverage of 17.3% 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 the variances requested by Applicant for minimum front yard setback, minimum side yard setback, minimum combined side yard setback and maximum building coverage as outlined above. The Board voted on July 21, 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.

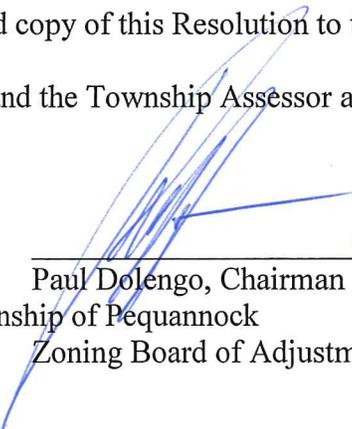
6. Applicant shall comply with the comments and recommendations set forth in the April 6, 2016 report of the Township Planner except as modified in this Resolution.

7. No apartment or rented rooms shall be located at the Property.

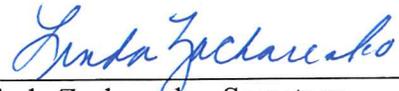
8. Applicant shall provide a current survey for the Property which will also be shown on Applicant's final plans submitted for signature to the Board.

9. Applicant shall prepare and record a deed restriction with the Morris County Clerk expressly limiting the dwelling to one (1) family use and expressly prohibiting use of the master bedroom suite as an apartment. The form content of said deed restriction shall be subject to the review and approval of the Board Attorney prior to recording.

**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.

 08-04-16  
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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 August 4, 2016.

 8/4/16

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Linda Zacharenko, Secretary  
Township of Pequannock  
Zoning Board of Adjustment

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

Yes: Hebert, Melleno, Skvarca, Vitcavich, Way, Driesse, Dolengo

No: None

Abstain: