

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Robert Sidoti

PROPERTY LOCATION: Block 2503, Lot 2, 43 Sunset Road

APPROVED: December 1, 2016

MEMORIALIZED: January 19, 2017

WHEREAS, Robert Sidoti (“Applicant”) has requested bulk variances for minimum lot area and maximum building coverage to permit the construction of a new single-family dwelling on property located at 43 Sunset Road, known and designated as Block 2503, Lot 2 on the Tax Maps of the Township of Pequannock in the Township’s R-11 zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on December 1, 2016; and

WHEREAS, the Board heard 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. 40:55-D-1 et seq. (“MLUL”).
2. The Property, owned by Applicant, is undersized and rectangular in shape,

measures 9,595 square feet and is located at Block 2503, Lot 2, at 43 Sunset Road in the Township's R-11 Residential zone district.

3. The Property is improved with a single-family dwelling.

4. Applicant desires to demolish the existing dwelling and construct a new two (2) story single-family dwelling on the Property.

5. To permit the construction of the new dwelling, Applicant requires variances from the requirements of the Township Zoning Ordinance ("Zoning Ordinance") for minimum lot area (11,250 square feet (s.f.) required pursuant to the Zoning Ordinance; 9,595 s.f. provided) and maximum building coverage (16% permitted pursuant to the Zoning Ordinance; 18.99% proposed).

6. Applicant's proposal is depicted on a map and plan prepared by Mark A. Palus, P.E., P.P., of MAP Engineering, Inc., entitled "Variance & Plot Plan, Block 2503 - Lot 2, #43 Sunset Road, for 43 Sunset Road, LLC, Township of Pequannock, Morris County, N.J." consisting of one (1) sheet, dated September 23, 2016. Joseph Hogan of MAP Engineering also submitted a letter to the Board, dated November 14, 2016, verifying Applicant's proposed building coverage calculations at the Property. Applicant also submitted architectural plans prepared by Roger C. Winkle, A.I.A., consisting of two (2) sheets, dated September 7, 2016.

7. The Board also received a report from the Township Engineer, Joseph R. Golden, P.E., P.P., dated October 24, 2016 and revised November 17, 2016 with regard to the application. Said report is hereby incorporated by reference as if set forth at length herein. The Board's Planner, Jill Hartmann, P.P., A.I.C.P., concurred in Mr. Golden's report.

8. At the December 1, 2016 hearing, the Board heard the testimony of Robert Sidoti, the Applicant.

9. Mr. Sidoti testified that existing dwelling on the Property is in disrepair and must be demolished.

10. Mr. Sidoti testified that the Property's undersized dimensions were the result of previous eminent domain proceedings undertaken by the Township which reduced the original lot area of the Property from a conforming size of 11,250 s.f. to its present size of 9,595 s.f.

11. Said reduction in lot area also creates, in part, the need for the variance for maximum building coverage.

12. The Board expressed concern with the disparity between Applicant's Deed to the Property which represented the Property's size as 11,250 s.f., and the certified survey of the Property, which measured same as 9,595 s.f.

13. It was recommended to the Applicant that the Deed and Survey of the Property be reconciled to eliminate any confusion and to also ensure that future owners of the Property would be accurately apprised of the actual area of the Property. This will be a condition of approval.

14. The October 24, 2016 (revised as of November 17, 2016) report of the Board's Engineer, Mr. Golden (see Paragraph 7) directed that Applicant's plans be revised to show the location of Applicant's proposed sewer connection, including proposed inverts leaving the new dwelling and connecting to the public sewer.

15. Mr. Golden's report further directed that Applicant's proposed driveway include an area to turn around and exit the driveway in a forward direction, with this area being located a minimum of eighteen feet (18') from the garage on the Property.

16. Mr. Golden's report also directed Applicant to provide detail of a seepage pit to be installed at the Property.

17. The Board requested, and Mr. Sidoti agreed, that Applicant would comply with all of the comments and recommendations set forth in Mr. Golden's report. This will be a condition of approval.

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

CONCLUSIONS OF LAW

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

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.
2. The variance for minimum lot area can be granted.
3. The deficiency in the lot area of the Property is directly attributable to eminent domain proceedings undertaken by the Township which had the result of reducing the size of the Property. This is an extraordinary and exceptional situation which uniquely affects the Property.
4. No additional land is available for purchase or other conveyance which would permit the Property to comply with the minimum lot area requirements of the R-11 zone.
5. In light of the foregoing, the strict imposition of the minimum lot area requirements of the R-11 zone would result in the imposition of exceptional and undue hardship upon the Applicant.
6. In addition, based on the testimony and exhibits proffered by Applicant, the requested variance will not be detrimental to the Township Master Plan, Zoning Ordinance, or other Township law or regulation.
7. Accordingly, the Board concludes that a variance for minimum lot area of 9,595 square feet for the Property 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 for maximum building coverage can be granted.

9. The Applicant's need for the building coverage variance is partially attributable to Township eminent domain proceedings which reduced the size of the Property. This is an extraordinary and exceptional situation which uniquely affects the Property.

10. No additional land is available for purchase or other conveyance which would permit the Property to comply with the maximum building coverage requirements of the R-11 zone.

11. In light of the foregoing, the strict imposition of the maximum building coverage requirements of the R-11 zone would result in the imposition of exceptional and undue hardship upon the Applicant.

12. The proposed dwelling to be built on the Property will be consistent and compatible with other dwellings in the surrounding neighborhood and in the R-11 zone. The deviation from the maximum building coverage requirements of the Zoning Ordinance will not result in a negative impact on the Property, surrounding lots or the neighborhood.

13. Based on the testimony and exhibits proffered by Applicant, the requested variance will not be detrimental to the Township Master Plan, Zoning Ordinance, or other Township law or regulation.

14. The proposed new dwelling will also 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).

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

16. Accordingly, the Board concludes that a variance from Zoning Ordinance

requirements for maximum building coverage of 18.99% on the Property 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)(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 MLUL, 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 Applicant's request for bulk variance for minimum lot area of 9,595 square feet and maximum building coverage of 18.99% pursuant to N.J.S.A. 40:55D-70(c)(1) as outlined above. The Board voted on December 1, 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

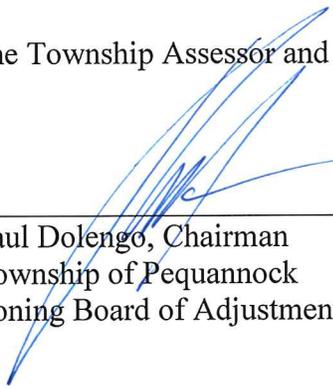
application prior and subsequent to the approval of this application.

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 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 all comments and recommendations set forth in the October 24, 2016 (revised November 17, 2016) report of the Township Engineer.

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 Applicant, 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 January 19, 2017.



Linda Zacharenko, Secretary
Township of Pequannock

Zoning Board of Adjustment

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

Yes:

No:

Abstain: