

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Brian and Michelle McKay

PROPERTY LOCATION: Block 2604, Lot 28, 16 Park Avenue

APPROVED: April 7, 2016

MEMORIALIZED: July 21, 2016

WHEREAS, Brian and Michelle McKay (“Applicants”) have requested variance relief for maximum building coverage to permit the expansion of an existing one (1) story residential dwelling to a two and one half (2 ½) story residential dwelling with an attached garage on property located at 16 Park Avenue, known and designated as Block 2604, Lot 28 on the Tax Maps of the Township of Pequannock in the R-11 zone district (“Property”); and

WHEREAS, public hearings were held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on March 3, April 7, and June 2, 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 11,210 square feet and is located at Block 2604, Lot 28, 16 Park Avenue in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.
 3. The Property is rectangular in shape and has frontage on Park Avenue.
 4. The Property is presently improved with a one (1) story residential dwelling and a detached garage. A paver patio is located on the north side of the dwelling.
 5. The Property has the following pre-existing, non-conforming conditions in the R-11 zone: minimum lot area (11,250 square feet required under the Township Zoning Ordinance (“Zoning Ordinance”), 11,210 square feet provided); minimum lot width (90 feet required, 75 feet provided) and minimum front yard setback (50 feet required, 39.92 feet setback provided).
 6. The aforesaid pre-existing, non-conforming conditions will not be exacerbated pursuant to the instant application.
 7. Applicants seek to demolish the existing detached garage and construct an expansion to the existing dwelling consisting of a one and one half (1½) story addition to the dwelling and a new two (2) car vinyl sided garage, with a master bedroom and bathroom also being constructed above the new garage.
 8. Applicants also seek to erect a 100 square foot (“s.f.”) shed behind the dwelling near the northwest boundary of the Property.
 9. To permit the requested development, Applicants require a variance for maximum building coverage (16% permitted pursuant to the Zoning Ordinance, 18.9% provided).
 10. Applicants’ proposal is depicted on site and architectural plans prepared by Evans Architects, AIA, John Evans, R.A., P.P., entitled “Proposed Addition & Renovation For Mr.

McKay, 16 Park Avenue, Pequannock, NJ” consisting of three (3) sheets, dated January 19, 2016, revised as of March 11, 2016.

11. 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.

12. At the Board’s March 3, 2016 meeting, the Board briefly heard the testimony of Brian and Michelle McKay, the Applicants.

13. Applicants propose to add a one and one half (1 ½) story addition to their existing dwelling. This will be connected to a new two (2) car garage, which will also house a new master bedroom and bathroom.

14. Applicants advised the Board that their development proposal has already received approval from the Township’s Health Department.

15. The Board expressed concerns with regard to Applicants’ calculation of building coverage and impervious surface coverage on its plans.

16. The Board also expressed concern regarding Applicants’ intention to install a portico roof above the dwelling’s front steps.

17. After discussion between the Board and Applicant, the Board voted to carry the Applicant’s hearing to the Board’s April 7, 2016 meeting permit Applicants’ professionals to investigate and verify the claimed building and impervious coverage which would exist at the Property pursuant to Applicants’ proposed development.

18. At the Board’s April 7, 2016 meeting, Applicants resumed their presentation, with updated tables on their plans reflecting revised and verified building and impervious coverage

calculations.

19. However, Applicants' plans again failed to set forth accurate calculations for building coverage and impervious surface coverage. The correct calculations, including Applicants' proposed shed, were determined to be 18.9% building surface coverage (requiring variance relief) and 30.4% impervious surface coverage (conforming).

20. The Board directed Applicants to revise their plans again to indicate these correct calculations for building coverage and impervious surface coverage. This will be a condition of approval.

21. Mr. McKay testified that Applicants would not be constructing the portico roof over the front steps of the dwelling and would be removing this proposal from their plans. This will be a condition of approval.

22. Mr. McKay testified that the shed would be used to hold landscaping equipment and gasoline for said equipment. He testified that it would be safer store these items in the shed rather than the proposed garage.

23. 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 requested by Applicants for maximum building coverage can be granted.

3. The new addition to be constructed by Applicants, while a material violation of the maximum building coverage requirements of the Zoning Ordinance, will improve and upgrade the existing dwelling on the Property, which is slightly undersized. The deviation will not result in a detrimental impact upon the Property or adjacent lots.

4. The addition will enhance the diversity of the Township's residential housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

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

6. The limited size of the Property is a unique condition which hinders Applicants' compliance with the maximum building coverage requirements of the Zoning Ordinance.

Accordingly, strict application of those requirements would inflict a degree of hardship on Applicants and preclude the addition of a reasonable enhancement to a permitted use.

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

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

9. Accordingly, the Board concludes that a variance for maximum building coverage of 18.9 % shall be and hereby is granted to Applicants 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 variance requested by Applicant for maximum building coverage as outlined above. The Board voted on April 7, 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:

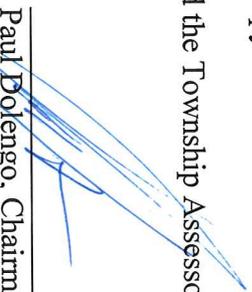
1. Applicants shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicants shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be 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 reflect a building coverage calculation of 18.9% and an impervious surface coverage of 30.4%

7. Applicants shall not construct a portico roof over the front steps of the dwelling and shall remove this from their plans.

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

07-21-16

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 July 21, 2016.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Belmont, Vitavrick, Wang, Alaleng*

No:

Abstain: