

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

**MORRIS COUNTY, NEW JERSEY**

**MATTER OF:** Redwan Ahmed

**PROPERTY LOCATION:** Block 803, Lot 19, 32 Oping Road

**APPROVED:** September 1, 2016

**MEMORIALIZED:** October 6, 2016

**WHEREAS**, Redwan Ahmed (“Applicant”) has requested variance relief for maximum building coverage to permit the construction of an addition to the first floor of an existing two (2) story residential dwelling on property located at 32 Oping Road, known and designated as Block 803, Lot 19 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 August 4 and September 1, 2016 with regard to the application; and

**WHEREAS**, the Board heard the testimony of 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 (“MLUL”).

2. The Property, owned by Applicant, measures 11,500 square feet in area and is located at Block 803, Lot 19, 32 Oping Road in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is rectangular in shape and fronts on Oping Road. A ten foot (10') strip of land owned by the Township is located on the east side of the Property.

4. The Property is presently improved with a two (2) story residential dwelling.

5. Applicant seeks to construct an 18' 10" x 14' addition on the eastern rear side of the existing dwelling which will contain a new family room with an open floor plan between the new family room and an existing kitchen.

6. To permit the requested development, Applicant requires a variance for maximum building coverage. A maximum building coverage of 16% is permitted pursuant to the Township Zoning Ordinance (“Zoning Ordinance”). Applicant initially requested a variance to permit a building coverage of 18.5%.

7. Applicant’s proposal is depicted on plot and architectural plans prepared by James P. Cutillo, R.A. of James P. Cutillo Associates, “Addition and Alterations to Existing Residence for Mr. & Mrs. R. Ahmed, 32 Oping Road, Pompton Plains, NJ” consisting of three (3) sheets, dated June 14, 2016.

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

9. At the Board’s August 4, 2016 hearing, Redwan Ahmed, the Applicant, briefly summarized the application and provided testimony as to same.

10. Mr. Ahmed testified that he wished to build the addition because he has accepted a job which necessitates his working from home at least four (4) days per week. This has necessitated his use of the dwelling's existing family room as an office.

11. Mr. Ahmed testified that the proposed addition would be used as a new family room, with the dwelling expanded to replace an existing deck on the dwelling, which would be removed.

12. A concrete pad and steps will be provided for ingress and egress from the new addition to the Property's rear yard. Another concrete pad and steps will be installed to provide ingress and egress from the existing kitchen to the rear yard.

13. The Board expressed concern with regard to the substantial increase in impervious surface coverage proposed by Applicant, as well as the accuracy of Applicant's front yard setback calculations.

14. In light of the foregoing, the Board requested, and Applicant agreed, that Applicant's architect, Mr. Cutillo, appear before the Board to give testimony and answer questions regarding Applicant's development proposal and plans.

15. The Board granted an adjournment of the application to the Board's next regular monthly meeting to permit Mr. Cutillo to appear.

16. The hearing on the application resumed at the Board's September 1, 2016 meeting. The Board heard the testimony of Mr. Cutillo.

17. Mr. Cutillo proffered, and the Board admitted as evidence, Exhibit A-1, a marked-up copy of Sheet 1 of Applicant's plans.

18. Mr. Cutillo testified that, in considering Applicant's variance request, it was

reasonable to consider the 10 foot (10') strip of land to the east of the Property boundary which is owned by the Township.

19 Mr. Cutillo testified, and the Board's Planner, Ms. Hartmann, confirmed, that the strip was owned by the Township for drainage purposes but has not been used. Mr. Ahmed testified that his neighbors maintain the strip.

20. Mr. Cutillo testified that if one half ( $\frac{1}{2}$ ) the area of the aforementioned 10' strip of land, a total of 625 square feet, were included in the calculations of the Property and proposed building coverage, said building coverage would be reduced from 18.5% to 17.5%.

21. The Board requested, and Applicant agreed, that Applicant would seek in good faith to purchase one half ( $\frac{1}{2}$ ) of the strip of land from the Township and provide proof of his good faith attempts to seek purchase and, if successful, proof of said purchase. This will be a condition of approval.

22. Mr. Ahmed testified that the existing white vinyl fence at the rear of the Property will remain in its present location.

23. The Board requested, and Applicant agreed, that Mr. Cutillo would (a) provide certified building coverage calculations and a clear explanation as to how inclusion of the 10' strip of land with the Property will reduce building coverage thereon, with the addition, from 18.5% to 17.5%; and (b) revise Applicant's plans to reflect said certified calculations and explanation. This will be a condition of approval.

24. 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 Applicant for maximum building coverage can be granted.
3. While the proposed addition to be constructed by Applicant deviates from the maximum building coverage requirements of the Zoning Ordinance, said deviation will not result in a detrimental impact upon the Property or adjacent lots.
4. The addition will be integrated into the rear footprint of the existing dwelling and will not be visible from the front or side of the dwelling.
5. Applicant's agreement to make a good faith effort to purchase one half (½) of the 10' strip of land at the east of the Property and presently owned by the Township will add 625 square feet to the Property and mitigate building coverage concerns.
6. The requested variance will permit enhancement of an existing, permitted dwelling use with minimal negative impact in an appropriate location. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).
7. Based upon the foregoing, the benefits to be obtained from granting the requested variance for maximum building coverage 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 17.5% (reflecting the inclusion and anticipated acquisition of one half (½) of the 10' strip of land at the east of the Property line) 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)(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 of 17.5% as described above. The Board voted on September 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 seek in good faith to purchase one half (½) of the strip of land from the Township and provide proof of his good faith attempts to seek purchase and, if successful, proof of said purchase.

7. Applicant's architect, Mr. Cutillo shall (a) provide certified building coverage calculations and a clear explanation as to how inclusion of the 10' strip of land with the Property will reduce building coverage thereon, with the addition, from 18.5% to 17.5%; and (b) revise Applicant's plans to reflect said certified calculations and explanation.

**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.

  
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Paul Dolengo, Chairman  
Township of Pequannock  
Zoning Board of Adjustment

10/6/16

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 October 6, 2016.

  
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Linda Zacharenko, Secretary  
Township of Pequannock  
Zoning Board of Adjustment

10/6/16

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

Yes:

No:

Abstain: