

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT  
MEMORIALIZING RESOLUTION  
ROBERT SIDOTI  
166 WEST END AVENUE  
Block 603, Lot 7

**WHEREAS**, the applicant is the owner of property located at 166 West End Avenue, Pequannock Township, New Jersey, Block 603, Lot 7, located in the R-15 zone district; and

**WHEREAS**, the applicant proposes to construct a new residence on an existing lot which would have a secondary front yard setback of 44.95' instead of the required 50'; and

**WHEREAS**, the applicant also proposes to remove the hedge of lilac bushes along Mountain Avenue and construct a 5' high decorative privacy fence along the Mountain Avenue side of the existing lot; and

**WHEREAS**, testimony was taken at a public hearing on December 6, 2012 at which time the Board took sworn testimony and both the applicant and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

**WHEREAS**, the Board has reviewed and consider all of the evidence and the testimony at the public hearing from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.
2. The subject property is a flat, rectangular parcel, which is presently improved with a one story residential dwelling, free standing garage attached by way of a frame breeze way and a substantial frame garage to the rear. The current access to the property is from Mountain Avenue. The front façade fronts on West End Avenue. The property is unoccupied and the buildings are in deteriorated condition. Demolition permits have been issued for all structures.
3. The applicant proposes to construct a new, two story, frame dwelling fronting on West End Avenue, with vehicular access from West End Avenue. Because the property is a corner lot, there is a front yard setback required from both West End Avenue and Mountain Avenue. The applicant proposes to meet, in fact slightly exceed, the front yard setback requirement on West End Avenue, but the proposed secondary front yard would be only 44.95' instead of the required 50'.
4. The requested variance is partly a result of the size of the footprint of the proposed new house. The applicant testified that due to the dimensions of the lot it is not possible to construct a house which meets current market demands with a smaller footprint without this minor intrusion into the secondary front yard.
5. The applicant further testified that he intends to remove the hedge of lilac bushes along Mountain Avenue and to construct a 5' high, decorative privacy fence along the Mountain Avenue side of the lot as shown on the map prepared by GB Engineering, dated Oct. 23, 2012. He

agreed to move the fence back from the property line the distance required by the ordinance, but requested that the application be amended to seek a variance from the 4' height limitation. Since the public notice which was published and served included a reference to "any additional required variances", the Board granted the amendment without the requirement of additional public notice.

6. Two members of the public appeared to testify in support of this application. Both are nearby neighbors and described the overall current condition of the property as an eye sore and current driveway location a safety hazard. They both strongly favored the proposed construction.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicant has sustained his burden under N.J.S.A. 40:55D-70(c)(2) in that the benefits of granting the requested variances substantially exceed any detriment which there may be and the Board finds that there is no detriment. The benefits to the public include a significantly improved property which eliminates several previous dimensional non-conformities. The existing structures are in a seriously deteriorated condition and removal of those structures benefits the public directly. The plan removes the existing driveway from the busier street and moves it to a secondary street which also offers benefits to the community.

2. The proposal creates a substantially enhanced visual environment in the neighborhood, a safer driveway design and location and will add additional ratables to the Township.

3. The requested variances can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

**NOW THEREFORE BE IT RESOLVED** by the Board of Adjustment of the Township of Pequannock this 17<sup>th</sup> day of January, 2013 that it now memorializes, ratifies and adopts the action taken at its meeting on December 6, 2012 granting the application of Robert Sidoti to construct a new residence on the subject property having a secondary front yard setback on Mountain Avenue of 44.95' instead of the required 50', and a secondary front yard fence setback of 5' with a fence height of 5', subject to the following conditions:

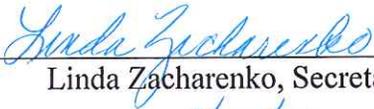
1. All construction shall be in substantial conformity in accordance with the four page Mascord Collection plans submitted with the application and the plot plan prepared by GB Engineering, LLC dated 9/17/2012, with the revised location of the proposed privacy fence.

2. The applicant shall restore the Mountain Avenue side of the property by removing the existing pavement and the existing lilac hedge and other shrubbery, and installing new trees along Mountain Avenue and West End Avenue [if permitted by current municipal regulations] to afford shade and privacy to the future residents.

3. Pursuant to the direction of the Board's Planner, applicant shall submit revised plans as per applicant's testimony which show a five (5) foot high fence, set back five (5) feet from the property line, as per ordinance. Said plans shall be subject to the review and approval of the Board's Planner.

4. No permits or Certificate of Occupancy shall be issued for the construction permitted by this Resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a Resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on January 17, 2013.

  
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Linda Zacharenko, Secretary  
2/21/13