TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Timothy and Stephanie Stoudt
PROPERTY LOCATION: Block 1901, Lot 1, 310 Boulevard
APPROVED: October 6, 2016
MEMORIALIZED: December 1, 2016

WHEREAS, Timothy and Stephanie Stoudt ("Applicants") have requested bulk variances for minimum front yard setback pursuant and minimum setback for a fence from a property line pursuant to N.J.S.A. 40:55D-70©)(2) to permit the installation of a eight foot (8') porch on a dwelling located at 310 Boulevard, known and designated as Block 1901, Lot 1 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 October 6, 2016; and

WHEREAS, the Board heard 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, N.J.S.A. 40:55-D-1 et seq.

("MLUL").

2. The Property, owned by Applicants, measures 20,946 square feet and is located at Block 1901, Lot 1, at the corner of Hopper Avenue and the Boulevard, in the Township's R-11 Residential zone district.

3. The Property is improved with a two (2) story single-family dwelling with an attached deck.

4. Applicants desire to install an 8' x 30' covered porch addition ("Addition") to the primary front yard portion of the dwelling, which has frontage on the Boulevard. Applicants also seek to replace an existing 4 foot high chain link fence in the secondary front yard having frontage on Hopper Avenue with a 6 foot high solid vinyl fence. .

5. To permit the construction of the Addition, Applicants require a variance from the requirements of the Zoning Ordinance for minimum primary front yard setback on the Boulevard. A 50 foot minimum front yard setback is required pursuant to the Zoning Ordinance. At present, the primary front yard setback is non-conforming, at 49.6 feet. Applicants propose a front yard setback of 41.6 feet for the Addition

6. Applicants also require variance relief for (a) the height of the proposed fence and (b) location of the proposed fence within the secondary front yard setback on Hopper Avenue, on the Hopper Avenue property line. A 4 foot maximum fence height and 5 foot minimum fence setback is required pursuant to the Zoning Ordinance. Also, installation of a fence on a property line is not permitted.

7. The Property meets all other bulk requirements in the R-11 zone.

8. Applicants' proposal is depicted on a map and plan prepared by James P. Cutillo Associates, James P. Cutillo, R.A., P.P., entitled "Addition & Alterations to Existing Residence

for Mr. & Mrs. T. Stoudt, 310 Boulevard, Pompton Plains, NJ" consisting of one (1) sheet, dated July 18, 2016.

9. Co-Applicant Timothy Stoudt also prepared architectural drawings of the proposed Addition, consisting of four (4) sheets, dated May 3, 2016, and submitted four (4) ground-level and one (1) overhead photographs of the Property, dated July 21, 2016.

10. The Board also received a report from the Township Planner, Jill A. Hartmann, P.P., A.I.C.P, dated August 30, 2016 with regard to the application. Said report is hereby incorporated by reference as if set forth at length herein.

11. At the October 6, 2016 hearing, the Board heard the testimony of Timothy Stoudt, the co-Applicant.

12. Mr. Stoudt briefly summarized Applicants' request for relief from the Board.

13. Mr. Stoudt testified that the proposed Addition will enable Applicants and their neighbors to more fully enjoy the Property.

14. Mr. Stoudt testified that the Addition will provide a shaded area with protection from the elements in the Property's front yard, which was lost when a large tree in front of the Property was destroyed during a storm.

15. Mr. Stoudt testified that the proposed 8 foot depth of the Addition is similar to porches presently on existing lots in the surrounding neighborhood.

16. Turning to the installation of the proposed 6 foot high fence on the frontage of the Property facing Hopper Avenue, Mr. Stoudt testified that Applicants desired that an existing set of forsythia shrubs, located approximately 3 or 4 feet from the proposed location of the fence, be left in place at the northeast corner of the Property to afford privacy to Applicants' two (2) young children. This necessitates the variance for the fence height and location.

17. Mr. Stoudt testified that all other existing fences at the Property will remain unchanged.

18. The Township Planner, Ms. Hartmann, advised the Board that the section of the Zoning Ordinance setting forth sign setback requirements was specifically intended to limit high fortress-like fences on corner lots, such as the Property.

19. The Board suggested, and Applicants agreed, that a fence no more than 4 feet in height would be installed along the front yard of the Property along Hopper Avenue. This will be a condition of approval. Accordingly, Applicants' request for a variance for height of the fence was withdrawn.

20. There were no objections to the requested variances 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 front yard setback can be granted.

3. The requested deviation from the minimum front yard setback requirements of the Zoning Ordinance will not result in a negative impact on the Property, surrounding lots or the neighborhood.

4. The Addition will enable Applicants' to derive greater enjoyment out of their existing home. The Addition will also enhance the appearance of the Property and the surrounding neighborhood. This is a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(I).

5. In addition, the improvements will enhance the diversity of the Township's residential housing stock, also a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(g).

5. 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.

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

7. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for a front yard setback of 41.6 feet shall be and hereby is granted to Applicants pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70©)(2).

8. The variance for location of Applicants' proposed fence within the 5 yard setback from the Hopper Avenue property line can be granted.

9. The proposed location of Applicant's fence within the Property's Hopper Avenue frontage will not result in a negative appearance, nor will it interfere with motorist visibility. The design and appearance of the fence will compliment fencing elsewhere on the Property.

10. As a corner lot, the Property is uniquely burdened by an extraordinary and exceptional situation. In such circumstances, the strict enforcement of the Zoning Ordinance's sign setback requirements would impose an exceptional and undue hardship upon Applicants.

11. The requested variance will not be detrimental to the Township Master Plan, Zoning Ordinance, or other Township law or regulation.

12. Accordingly, the Board concludes that a variance to permit the location of a fence within the 5 foot setback from the Hopper Avenue property line shall be shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70©)(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 Applicants' request for a bulk variance for minimum front yard setback of 41.6 feet, and setback of a fence within 5 feet of the Hopper Avenue property line pursuant to N.J.S.A. 40:55D-70©)(2) as outlined above. The Board voted on October 6, 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.

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 December 1, 2016.

Linda Zacharenko 12/2/16

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, Wintemberg and Dolengo

No: Imfeld

Abstain: