

Jill A. Hartmann, PP, AICP

21 Sparrowbush Road Mahwah, New Jersey

Tele. 201.818.9090

Fax 201.995.0162

TO: Pequannock Zoning Board of Adjustment
FROM: Jill A. Hartmann, PP, AICP
RE: VARIANCE APPLICATION; 22 FOOTHILLS DRIVE; BLOCK 202, LOT 4;
APPLICANT: CHRISTOPHER ANELLO.
DATE: March 3, 2020

This is a Variance Application to legalize existing non-conforming conditions of the developed subject site. Development of the above noted site was undertaken without requesting/receiving variance approval from the Zoning Board of Adjustment for a number of items. The subject site is located in the R-22 Residential District of the Township. The existing non-conforming development requires variance relief from the required building height and impervious surface coverage. In addition, the existing accessory building will require variance relief. The Zoning Board of Adjustment has jurisdiction to hear this application. The following submitted documents were utilized in the preparation of this planning and zoning report:

- Completed Pequannock Township Application for Variance, signed and dated July 9, 2019.
- Existing Conditions Plan, consisting of one sheets, prepared by Frederick C. Meola, PE, PLS, dated October 1, 2019.
- Architectural Plan for Single Family Residence, consisting of 5 sheets, prepared by William P. Byrne, RA of Byrne Design Associates, LLC, dated October 1, 2019.
- Architectural Plan for Accessory Building, consisting of 2 sheets, prepared by William P. Byrne, RA of Byrne Design Associates, LLC, dated January 30, 2020.
- Survey, prepared by Frederick C. Meola, PE, LS, dated May 16, 2020.
- Pequannock Township Memorializing Resolution, Michael and Genine Handel, 22 Foothill Drive, Pompton Plains, NJ, Block 202, Lot 4, dated December 1, 2005.

ZONING ANALYSIS AND COMMENTS

1. This is an oversized 46,657 square foot interior lot that contains an existing single family residence with an in-ground pool and rear yard accessory structure that is labeled "garage" on the Survey and Existing Conditions Plan.

The site development history can be found in the submitted report from Robert Grant, Construction Official, dated February 28, 2020. This report details what permits were issued; denied and what construction was done without permits.

2. The application is requesting the following bulk variances:

- | | | |
|-----------------------|--------|-------------------|
| • Building Height | 35' | Permitted |
| | 36'-9" | Existing/Proposed |
| • Impervious Coverage | 30% | Permitted |
| | 42.97% | Existing/Proposed |

3. The subject site received variance approval to construct an accessory building/detached garage/pool house at a height of 23' where 15' was permitted.

The 2005 approving resolution states the following:

- The floor plan shows an open and unobstructed three bay garage area inside the structure, 30' deep by 35' wide. A steel beam is proposed across the approximate middle of the space, running north to south. The balance of the first floor, to the south of the garage area, is an enclosed area for playroom, storage, pool filter room and storage for pool equipment.
- There is a second story called a "mezzanine" on the plans. The applicant testified that the maximum height of the mezzanine would be 6'-8" to the collar beams. Consequently this would not be a full second floor area because the ceiling descends as it approaches the exterior walls.
- The applicant testified that the structure will be provided with gas, electric and water. The water would be used solely for the pool filters and pool water. It would not be used for residential purposes. There will be no toilet facilities in the structure. The structure will not be connected to the sewer or a septic system.
- A condition of approval was that the area designated for storage, including the second floor shall be used solely for storage in connection with the residential use of the property for personal items customarily used in a residence. The mezzanine area shall not be finished in any way.
- A condition of approval was that using the structure as a separate residence was strictly prohibited.
- A condition of approval was that there would be no connection of the new garage/storage space area to any water treatment facility such as a sewer or septic system.

The accessory structure/detached garage received the necessary construction permits, from the Building Department. In accordance with the variance approval, no toilet was requested. However, a bathroom was installed with connection to the sewer without permits and in direct violation to the conditions of approval.

In addition, it appears that a kitchen was installed, in direct violation to the approving resolution. The plans submitted with this application show an outline of a kitchen. The applicant should address this and provide testimony regarding the proposed use of this structure.

Further, it appears the mezzanine was improved/finished with sheet rock and painting.

4. Following the issuance of permits and the construction of the single family residence, the previous owner modified the roof to enlarge the attic. The attic area is now dedicated to a 20' x 17'-4" (481 sf) bedroom with surrounding attic space for a total of 6 bedrooms. This application is requesting a variance from the permitted height where 35' is permitted and 36.9' exists. Variance relief from this regulation is required.
5. The approved impervious coverage was 27% where 30% is permitted. A review of the plans, associated with the issuance of building permits, shows that the driveway from the southern edge of the pool to the garage entrance of the accessory building was intended to be and approved for stone/pervious driveway. The previous owner, without permits, increased the driveway width area in front of the accessory building and paved it. In addition, the previous owner installed a concrete walkway adjacent and north of the accessory building for its entire width. As a result, the existing impervious surface coverage is 42.97% where 30% is permitted. Variance relief from this regulation is required or the applicant must remove sections of the driveway and/or the concrete walkway to reduce the impervious coverage on the site.

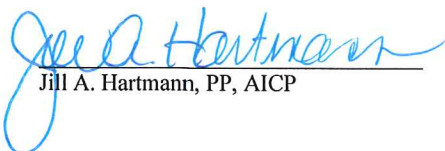
6. The above noted required variances are classified as a “c” variances. As with all “c” variance applications, the applicant must provide testimony as to how the variance requested addresses the statutory requirements of N.J.S.A 40:55D-70c (1) hardship or (2) that the variances requested benefit the community in that they represent a better zoning alternative for the property.

The c(1) hardship variance must relate to a specific piece of property or in other words the hardship arises out of a condition of the land itself or structures lawfully existing on the site. The c(2) variance does not require the showing of undue hardship. What must be shown is that the application (1) relates to a specific piece of property and (2) that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance. Essentially, the variances requested must benefit the community in that they represent a better zoning alternative for the property.

7. I have the following comments:

- The existing bathroom was constructed without any permits from the Township Building Department. The application states that the existing bathroom is permitted in the accessory building and that the installation of same was not explicitly permitted when said variance was granted. As a condition of the 23' building height variance approval in 2005, the installation of a toilet in this structure was specifically prohibited. The connection to the sanitary sewer was also specifically prohibited. The Board should consider requiring the applicant remove the bathroom.
- If the Board determines to approve this application, the submitted architectural plan must be labeled as follows to be consistent with the 2005 approving resolution:
 - The ground floor three bay garage must be identified and labeled.
 - The area south of the three bay garage must be labeled to identify the enclosed area for a playroom, storage room, pool filter room and storage room for pool equipment.
 - The mezzanine height must show that the height is 6'-8" and labeled storage.
- The existing single family residence and accessory building were both constructed not in conformance with the submitted plans and the issued permits. Any approval, of this application, should be subject to the Township's Construction Official an/or representative inspecting the single family residence and the accessory building for conformance with 2018 International Residential Code.
- The Township has never received an “as-built” for the accessory building. The accessory building exceeds the permitted height. An architect's certification of the height of the accessory building should be provided. This will confirm the 2005 Resolution variance approval for the building height.
- The excessive impervious surface coverage may require additional drainage infrastructure. The Board should have the Board's Engineer review the plans and determine if additional drainage infrastructure is required. If needed, the applicant should be required to install additional drainage infrastructure.

It is certified that all copies of this document are in conformance with the original prepared by Jill A. Hartmann, PP, AICP, License No. 4088


Jill A. Hartmann, PP, AICP

Zone Table

22 Foothills Drive
R-22 District

Item	Required	Existing	Variance
Lot Size	22,000 sf	46,657 sf	OK
Lot Width	110'	126.82'	OK
Lot Frontage	110'	126.82'	OK
Lot Depth	200'	363.07'	OK
Front Yard Setback	50'	50.1'	OK
Side Yard Setback	15'	15'	OK
Both Side Yard Setbacks	40'	45.5'	OK
Rear Yard Setback	50'	237.2'	OK
Building Coverage	12%	11.2%	OK
Lot Coverage	30%	42.97%	Variance Required
Building Height	2½ stories/35'	2 ½ stories/36.9'	OK/Variance Required