

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Elder A. Oliveros

PROPERTY LOCATION: Block 3203, Lot 11, 2 Davis Avenue

APPROVED: August 5, 2021

MEMORIALIZED: September 2, 2021

WHEREAS, Elder Oliveros (“Applicant”) has requested variances for minimum front yard setback and minimum rear yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the construction of a one (1) story rear addition and a new attached rear deck at an existing single family residential dwelling on property known and designated on the Tax Lots of the Township of Pequannock (“Township”) as Block 3203, Lot 11, 2 Davis Avenue (“Property”), with the Property located in the Township’s R-15 zone district; and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on August 5, 2021; and

WHEREAS, the Board heard testimony by 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, N.J.S.A.40:55D-1 et seq. (“MLUL”).

2. The Property, owned by Applicant, is located at Block 3203, Lot 11, measuring 18,337 square feet in area. The Property is a corner lot with frontage on Jacksonville Road and Davis Avenue. The Property is improved with a 1 ½ story single family dwelling (“Dwelling”), which is set diagonally on the Property. The Property is located in the Township’s R-15 zone district.

3. Applicant seeks to construct a 12' 5" x 27' 3" one (1) story addition on the rear of the Dwelling which will provide an expanded kitchen and new dining room (“Addition”). Applicant also desires to construct a new 8' x 12' deck (“Deck”) which will be attached to the aforesaid addition.

4. The Property has two (2) pre-existing, non-conforming conditions in the R-15 zone, lot frontage (100 feet required pursuant to the Township Zoning Ordinance (“Zoning Ordinance”) §189.03.040 B.(8), 80 feet existing) and minimum front yard setback (50 feet required, 34.79 feet existing). These pre-existing non-conforming conditions will not be exacerbated by the proposed development.

5. To permit the requested development, Applicant requires a variance from R-15 zone district requirements for minimum front yard setback on Jacksonville Road (50 feet required pursuant to the Zoning Ordinance, §189.03.040 B.(4), 40.25 feet proposed) and minimum rear yard setback (40 feet required, §189.03.040B.(5), 22.45 feet existing, 7.8 feet (to deck) proposed).

6. Applicant’s proposal is depicted on plans prepared by Rockwood Architecture + Design, Christopher Rodriguez, R.A., entitled “Oliveros Residence, 2 Davis Avenue, Pompton

Plains, New Jersey” consisting of three (3) sheets, dated March 3, 2021. Applicant also submitted a Certified Survey prepared by GB Engineering, LLC, Thomas G. Stearns III, P.E., P. L. S, consisting of one (1) sheet, dated February 9, 2021.

7. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated August 4, 2021, the contents of which are incorporated herein by reference.

8. The Board heard the testimony of the Applicant, Elder A. Oliveros.

9. Mr. Oliveros testified that the Addition will enlarge the Dwelling’s existing kitchen, create a new dining area, and add the Deck. He testified that he would like to upgrade the appearance and function of, and add value to, the Dwelling. He testified that the Addition and Deck would make the Dwelling more compatible with other homes in the neighborhood.

10. Mr. Oliveros testified that the Deck would be located approximately two feet (2') off the ground.

11. Mr. Oliveros testified that the Dwelling is served by a septic system on the left side of the Dwelling, which will not need to be increased in capacity as a result of the proposed development. Mr. Oliveros testified that the existing location of the septic system necessitated the proposed location of the Addition.

12. 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 from Zoning Ordinance requirements for minimum front yard setback can be granted.

3. The proposed development will result in the upgrading and enhancement of an existing single-family home, thus diversifying the Township's housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

4. The variance for minimum front yard setback will not conflict with the purposes of the R-15 zone district.

5. The variance will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

6. Based upon the foregoing, the benefits to be obtained from granting the requested variance for minimum front yard setback outweigh any detriments which might result therefrom.

7. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for a minimum front yard setback of 40.25 feet shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).

8. The variance requested by Applicants from Zoning Ordinance requirements for minimum rear yard setback can be granted.

9. The variance will enable the upgrading of the appearance and the enhancement of the Applicant's usage and enjoyment of the Property while preserving the Property's residential character, including existing light, air and open space conditions therein. This is a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(e).

10. The variance for minimum rear yard setback will not conflict with the purposes of the R-15 zone district.

11. The variance will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

12. Based upon the foregoing, the benefits to be obtained from granting the requested variance for minimum rear yard setback outweigh any detriments which might result therefrom.

13. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for a minimum rear yard setback of 7.8 feet shall be and hereby is granted 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 Applicants variances for minimum front yard setback and minimum rear yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) as outlined above. The Board voted on August 5, 2021 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. Applicant shall also 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. The Deck shall not be used as residential space.

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 September 2, 2021.

Lori Camaya, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes:

No:

Abstain: