

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION

Thomas & Bonnie Herd
6 Cameron Avenue
Block 3301 Lot 3

WHEREAS, the applicants are the owners of property located at 6 Cameron Avenue, Pompton Plains, New Jersey, Block 3301, Lot 3, located in the R- 9 zone district; and

WHEREAS, the applicants have requested three dimensional variances to permit the construction of a garage addition and front porch portico to the premises which would reduce the front yard setback from the required 35' to 31.9', and increase building coverage to 20.8% exceeding of the maximum permitted of 17%, and the right to have a shed in the rear of the property 1' from the rear property line instead of the 5' required; and

WHEREAS, testimony was taken at a public hearings on November 4, 2010, and December 2, 2010 at which time the Board took sworn testimony and 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 considered all of the evidence and the testimony at the public hearings 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, generally rectangular lot, located on the north side of Cameron Avenue and is presently improved with a 1-1/2 story frame, single family dwelling, plus a free standing shed at the rear of the lot. Directly behind this lot is a 25' wide lane, the only purpose or use of which is to provide lot frontage and access to lot 46 in block 3301 which is presently unimproved.
3. The applicants purchased the subject property approximately 2 years ago at which time it was serviced with a carport on the east side of the house. That carport was in deplorable condition and collapsed. It was removed prior to the filing of this application. The applicants propose to construct a garage addition which will have a footprint slightly larger than that which the carport had.
4. The applicants also propose to construct a covered portico over the front entry way to the house. Because it is a covered portico it must be included in the setback calculations and would reduce the front yard setback facing Cameron Avenue from an existing 35.7' to a non-conforming 31.9'. The purpose of that portico is both aesthetic as well as a safety feature so that the steps leading to the front door will be covered during inclement weather.
5. There is an existing shed at the rear of the property which is in excellent condition as disclosed by the photographs marked exhibits A-1 and A-3 showing the front and rear of that shed. The shed is approximately 26' wide by 10' deep.

6. The building coverage reported in the coverage calculation chart originally submitted was in error, in that it stated the originally proposed building coverage to be 18.31%, whereas the correctly calculated building coverage originally proposed was 20.8%. The reason for the discrepancy was that the deck at the rear of the house is more than 30" above the ground, approximately 40", and therefore must be considered in building coverage calculation. This means that on this 9564 sq. ft. lot there would be an excess of 363 sq. ft. of building coverage as originally proposed.

7. The board accepts the applicants' testimony that both the shed and the deck were present on the property when they purchased the property approximately 2 years ago and that the carport was existing as depicted in exhibit A-2 which was introduced at the time of the public hearing. However, it was also presented at the hearing that the prior owners of the property had agreed to remove 2 pre-existing sheds at the time the deck was built and no provision had been granted for replacing those 2 older sheds. Therefore, it appears that the building coverage exceeded the allowable limits prior to the time the applicants purchased this property and there had been no previous variance or waiver granted to the prior owners.

8. There is a stockade fence along the entire length of the rear property line between this lot and the adjacent lane way to the rear, except for the approximately 24 feet of the shed which forms a part of the delineation of the rear lot line along with the fence.

9. At the continued public hearing of this matter on December 2, 2010 the applicants submitted a revised plan in which they had removed the proposed garage thereby reducing the proposed building coverage by 316 sq. ft. This revision reduced the percentage of building coverage to 17.96%. Since the correctly calculated existing building coverage is 19.4% and the proposed is now 17.96%. The proposal represents a substantial improvement in bringing the property more into conforming with the zoning ordinance.

No members of the public appeared to testify in connection with this application at either public hearing.

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

1. The benefits of granting the requested variance substantially exceed any detriment which there may be, and the Board finds that there is no detriment.

2. The benefit to the public is bringing this property more into conformity with the zoning ordinance by reducing the existing building coverage of 19.4% to 17.96%.

3. The shed on the subject property appears to have been put up in violation of the zoning ordinance because the deck pre-existed the shed. Once the deck was constructed to this property there was very little additional building coverage permitted. However, the location of the shed on or near the property line is a de minimis violation because it is probably better that the shed


be in line with the existing stockade fence at the rear of the property than 5' from that fence which would then create a narrow alley way between the fence and the rear of the shed. As presently constructed the shed appears to form a part of the rear property line fence. Visually and functionally this is a better arrangement.

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 20th day of January, 2011 that it now ratifies, memorializes and adopts the action taken at its meeting on December 2, 2010 granting the application of Thomas and Bonnie Herd for building coverage of 17.96% and to leave the existing shed at its current location which is less than 5' from the rear property line subject to the following condition.

1. No permits and/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 December 2, 2010.



Linda Zacharenko, Secretary