

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Joseph and Jennifer Curattalo
PROPERTY LOCATION: Block 3503, Lot 5, 43 Payson Road
APPROVED: December 7, 2017
MEMORIALIZED: January 18, 2018**

WHEREAS, Joseph and Jennifer Curattalo (“Applicants”) have requested variances for minimum front yard setback and minimum combined side yard setback to permit the construction of a two (2) story addition and open front porch to an existing two (2) story, single-family residential dwelling on property located at 43 Payson Road, known and designated as Block 3503, Lot 5 on the Tax Maps of the Township of Pequannock in the R-15 zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on December 7, 2017; 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 (“MLUL”).

2. The Property, owned by Applicants, measures 15,000 square feet and is located at Block 3503, Lot 5, 43 Payson Road in the Township of Pequannock (“Township”) in the Township’s R-15 zone district.

3. The Property is rectangular in shape and is improved with a two (2) story bi-level single-family dwelling with an attached one (1) car garage. A paver walk is located in the front yard, a concrete patio, in-ground pool and a shed are located in the rear yard of the Property.

4 Applicants request approval to construct a 15' by 25' two (2) story addition to the south side of the dwelling. The addition will have a second story cantilever of 1.5' in the front and 1.6' in the rear, making the total dimensions of the addition 15' by 28.1'.

5. Applicants also request approval to construct a new 4.33' by 8.33' open porch addition at the front of the dwelling.

6. Applicants will require a variances for minimum front yard setback 50 feet (or average) required under the Township Zoning Ordinance (“Zoning Ordinance”), 50.1 feet existing, 46.8 feet proposed and minimum combined side yard setback 35 feet required, 45.61 feet existing, 30.61 feet proposed).

7. Applicants’ proposal is depicted on plans prepared by David Cochran, R.A., entitled “Addition and Alteration to: Curattalo Residence, 43 Payson Avenue, Pompton Plains, Morris County, NJ” consisting of three (3) sheets, dated October, 2017.

8. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated December 1, 2017, the contents of which are incorporated herein by reference.

9. The Board heard the testimony of Joseph Curattalo, the Co-Applicant.

10. Mr. Curattalo testified that Applicants desire to improve their dwelling by converting an existing living room into a dining room, while constructing a new family room with access to the Property's rear yard and interior stair access to a new 15' x 25' basement.

11. Applicants also wish to construct a new master bedroom suite with a full bedroom and a walk-in closet on the dwelling's second floor.

12. Mr. Curattalo testified that Applicants had discussions with their neighbors as to the proposed development. Said neighbors had no objection to same.

13. Mr. Curattalo testified that additional land was not available for purchase from adjacent property owners to permit the property to fully comply with the Zoning Ordinance.

14. Mr. Curattalo proffered, and the Board admitted as evidence, Exhibit A-1, a certified survey of the Property.

15. The Board expressed concern that the lot number on Applicants' survey (Lot 11) was not correct. Mr. Curattalo testified that he would correct his survey and the depiction of the survey on Applicants' site plans. This will be a condition of approval.

16. 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. Applicants have shown by testimony, exhibits and other evidence that the relief sought can be granted.

2. The variance requested by Applicants from the minimum front yard setback

requirements of the Zoning Ordinance can be granted.

3. The violation of the minimum front yard setback requirement, caused by the cantilevering of the second story of the new addition and the new front porch, is moderate and will not result in the dwelling being incompatible with neighboring properties.

4. The new addition and front porch will promote greater enjoyment of the dwelling and Property by Applicants, their family and their guests. This is a promotion of the general welfare, a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(a).

5. The new addition and front porch will also upgrade and enhance the appearance of the dwelling, a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(i).

6. 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.

7. The variance will not conflict with the purposes of the R-15 zone.

8. The variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

9. Accordingly, the Board concludes that a variance for minimum front yard setback of 46.8 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).

10. The variance requested by Applicants for minimum combined side yard setback can be granted.

11. The proposed deviation from the minimum combined side yard setback requirements as a result of the development will provide an upgrade to Applicants' dwelling and enhance the Township's housing stock. This is a purpose of zoning pursuant to the MLUL,

N.J.S.A. 40:55D-2(e).

12. The addition will also promote a more desirable visual environment at the Property, a purpose of zoning pursuant to the MLUL, N.J.S.A. 40:55D-2(i).

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

14. The variance will not conflict with the purposes of the R-15 zone district.

15. The variance will not be detrimental to the Township Master Plan or Zoning Ordinance.

16. Accordingly, the Board concludes that a variance for minimum combined side yard setback of 30.61 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).

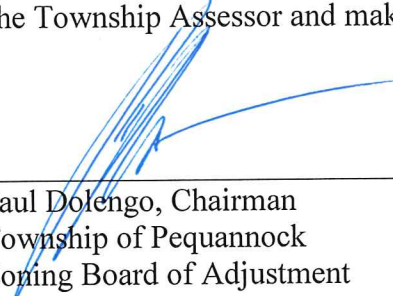
NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent 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 the variances requested by Applicant for minimum front yard setback and minimum combined side yard setback as outlined above. The Board voted on December 7, 2017 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.
6. Applicants shall comply with the comments and recommendations set forth in the December 1, 2017 report of Ms. Hartmann.
7. Applicants shall revise their current survey and the depiction of the survey printed on their site plan to properly identify the Property as Block 3503, Lot 5, and remove all references to Block 2503, Lot 11.

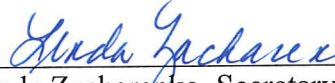
BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and

directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicants' expense and to send a certified copy of this Resolution to the Applicants, 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 January 18, 2018.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Hebert, Anfeld, Truller, Skvarca, Dolengo*

No:

Abstain: