

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Phillip Mistrette

PROPERTY LOCATION: Block 2603, Lot 13, 4 Michael Court

APPROVED: April 5, 2018

MEMORIALIZED: May 3, 2018

WHEREAS, Phillip Mistrette (“Applicant”) has requested a variance for maximum building coverage to permit the construction of an addition on property located at 4 Michael Court, known and designated as Block 2603, Lot 13 on the Tax Maps of the Township of Pequannock in the R-11 zone district (“Property”); and

WHEREAS, public hearings were held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on April 5, 2018; and

WHEREAS, the Board heard testimony by Applicant, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicant, represented by Steven C. Schepis, Esq., 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 (“MLUL”).
2. The Property, owned by Applicant, measures 11,706 square feet and is located at

Block 2603, Lot 13, 4 Michael Court in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is improved with a “bi-level” 1,661 square foot single-family dwelling (“Dwelling”). A 101.4 square foot shed is also located on the Property.

4. Applicant requests approval to construct a two (2) story, 18 foot x 16 foot (288 square feet) addition on the west side of the Dwelling.

5. The Property has the following pre-existing, non-conforming conditions in the R-11 zone, that of minimum lot width (90 feet required, 50 feet provided), minimum lot depth (125 feet required, 100.32 feet provided) and maximum building coverage (16% permitted, 17.26% provided). The lot width and lot depth conditions will not be exacerbated by the instant application. However, the building coverage condition will be intensified by the proposed development.

6. Applicant requires a variance for maximum building coverage (16% permitted, 17.26% provided, 19.72% proposed).

7. Applicant’s proposal is depicted on plans prepared by Richard A. Bouchard, R.A., consisting of three (3) sheets, dated February 19, 2018, revised as of February 25, 2018.

8. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated April 4, 2018, the contents of which are incorporated herein by reference.

9. Applicant’s attorney, Mr. Schepis, briefly summarized the application.

10. The Board heard the testimony of the Applicant’s architect, Richard Bouchard, R.A.

11. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-1, a

colorized version of Page 1 of Applicant's site plan.

12. Mr. Bouchard testified that the Dwelling is a "raised ranch" with no basement. A sunroom is located at the rear of the Dwelling's upper floor. Owing to the location of the septic tank on the Property, the sunroom is built upon three (3) columns. There is no column at the eastern end of the Dwelling. This condition existed when Applicant purchased the Property.

13. Mr. Bouchard testified that the lower/ground floor of the proposed addition will expand the Dwelling's existing two (2) car garage to create a storage room adjacent to the bedroom, full bathroom and mechanical room. The storage room will be unheated and will have a window.

14. Mr. Bouchard testified that the upper floor of the addition will be located directly over the storage room and will expand the upper floor to include a master bedroom suite, including a bedroom, full bathroom, new walk-in closet and den/study area.

15. Mr. Bouchard testified that no changes will be made to the existing exterior of the Dwelling or the Dwelling's kitchen, living/dining room, two (2) bedrooms, bathroom and "three season room" and deck.

16. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-2, a colorized version of Page 3 of Applicant's site plan.

17. Mr. Bouchard testified that the proposed addition will follow the roof lines and existing features of the Dwelling.

18. Mr. Bouchard testified that impervious surface coverage at the Property is very low, at 26.2%. Even with the proposed addition, impervious coverage increases modestly, to 28.66%, well below the maximum coverage permitted of 40%

19. Mr. Bouchard testified that, while part of the Property's rear yard is located in a flood zone, the Dwelling is not. He further testified that the proposed addition will not be located in a flood zone.

20. The Board requested, and Applicant agreed, to provide an updated, certified survey of the Property. This will be a condition of approval.

21. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-3, an aerial photograph of the Property and surrounding lots.

22. The Board heard the testimony of the Applicant, Phillip Mistrette.

23. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-4, a realtor-prepared brochure of the Property at the time Mr. Mistrette purchased same.

24. Mr. Mistrette testified that he lives in the Dwelling with his wife, two (2) children and his ninety (90) year old grandmother, who lives on the Dwelling's lower floor.

25. Mr. Mistrette testified that he was not aware that the impervious surface coverage was non-conforming at the time he purchased the Property.

26. Mr. Mistrette testified that the lower floor of the addition would be used for storage, which is necessary because the Dwelling lacks a basement.

27. Mr. Mistrette testified that the upper floor will provide a sitting area and walk-in closet for the Dwelling's master bedroom.

28. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-4, a realtor-prepared brochure of the Property at the time Mr. Mistrette purchased same.

29. Mr. Mistrette testified as to the location of the septic system on the Property.

30. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-5, a

diagram of the septic system at the Property.

31. Mr. Mistrette testified that a gray water (wastewater generated without fecal contaminant) system is located in front of the Dwelling and a black water (wastewater generated from toilets) system is located in the rear of the Dwelling.

32. The Board heard the testimony of Lisa Phillips, P.P., A.I.C.P., Applicant's Planner.

33. Mr. Schepis proffered, and the Board admitted into evidence as Exhibit A-6, a collection of eight (8) photographs taken by Ms. Phillips of the Property, Dwelling and neighboring lots and dwellings thereon.

34. Ms. Phillips testified that the requested variance for maximum building coverage would not have a negative impact on the Property or the surrounding neighborhood.

35. Ms. Phillips testified that the proposed development will be compatible with other homes in the surrounding neighborhood. Many of these homes have decks and sheds.

36. It was Ms. Phillips' professional opinion that the proposed development provided sufficient light, air and open space at the Property, a purpose of the MLUL, N.J.S.A. 40:55D-2(c), and would preserve the residential character of the neighborhood, a purpose of the MLUL, N.J.S.A. 40:55D-2(e).

37. The meeting was opened to the public. Mr. Donald Koonjy and Ms. Kathleen Koonjy, 2 Michael Court, addressed the Board and stated that they had no objection to the application.

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 Applicant for maximum building coverage can be granted.

3. The variance will permit the upgrading of the Dwelling while preserving the residential character of the Property and surrounding neighborhood, 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).

4. The variance will provide sufficient space in an appropriate location for a modernized single-family residential home in the R-11 Zone, thereby improving and diversifying the Township's housing stock in that zone. This is also a purpose of zoning under 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 maximum building coverage outweigh any detriments which might result therefrom.

6. The variance for maximum building coverage will not conflict with the purposes of the R-11 zone district.

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

8. Accordingly, the Board concludes that a variance for maximum building coverage of 19.72% 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 variance requested by Applicant for maximum building coverage as described above. The Board voted on April 5, 2018 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 and shall comply with all reports and comments

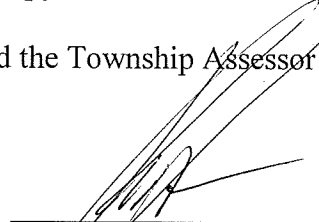
submitted by the Board's Planner and/or Engineer in connection with the application.

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. Applicant shall comply with the comments and recommendations set forth in the April 4, 2018 report of Ms. Hartmann.

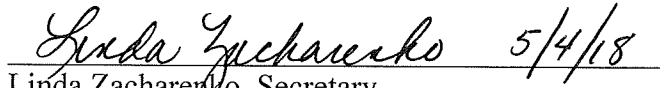
7. Applicant shall provide and updated, certified survey for the Property.

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 May 3, 2018.



Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Debert, Anfeld, Trillers, Skuttlesworth*

No:

Abstain: