

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

MORRIS COUNTY, NEW JERSEY

MATTER OF: Michael and Kelly Battista

PROPERTY LOCATION: Block 1804, Lot 19, 7 Post Road

APPROVED: January 18, 2018

MEMORIALIZED: February 1, 2018

WHEREAS, Michael and Kelly Battista (“Applicants”) have requested variances for minimum front yard setback and maximum building coverage to permit the construction of a porch addition to an existing 2.5 story, single-family residential dwelling on property located at 7 Post Road, known and designated as Block 1804, Lot 19 on the Tax Maps of the Township of Pequannock in the R-11 zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on January 18, 2018; 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 9,503 square feet and is located at Block 1804, Lot 19, 7 Post Road in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is an undersized lot which is improved with a 2.5 story single-family dwelling and an attached garage. A septic system is located in the Property’s rear yard.

4. Applicants request approval to remove the dwelling’s existing 3' front landing and construct a new 11', 2" x 6' porch to the front of the dwelling.

5. The Property has the following pre-existing, non-conforming conditions in the R-11 zone: minimum lot size (11,250 square feet required under the Township Zoning Ordinance (“Zoning Ordinance”), 9,503 square feet existing); minimum lot width (90 feet required, 65 feet provided), minimum front yard setback (50 feet required, 39.1 feet existing) and maximum building coverage (16% permitted, 18.7% existing).

6. Only the minimum front yard setback and maximum building coverage conditions will be exacerbated pursuant to the instant application.

7. Applicants will require variances for minimum front yard setback (50 feet permitted, 39.1 feet existing, 31.4 feet proposed (due to the porch addition)) and maximum building coverage (16% permitted, 18.7% existing, 20.7% proposed).

8. Applicants’ proposal is depicted on a plan prepared by John E. Giammarino, R.A., entitled “Additions and Alterations at 7 Post Road, Pequannock, NJ”, consisting of one (1) sheet, dated September 14, 2016, revised as of December 12, 2017. Said plan is neither signed nor sealed.

9. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated January 16, 2018, the contents of which are incorporated herein by reference.

10. The Board heard the testimony of Frank Mariconda, Applicants' contractor.

11. Mr. Mariconda testified that the Property is a pre-existing, non-conforming structure.

12. Mr. Mariconda testified that he recently completed construction of a second-floor addition to the existing dwelling. Applicants now wish to construct a new front porch to further enhance the appearance and utility of the dwelling.

13. The Board heard the testimony of Michael Battista, the Co-Applicant

14. The Board expressed concern with errors and omissions on Applicants' plan, including a misidentification of the dwelling's "South Elevation" (which should be identified as the "North Elevation") and the absence of the 200-foot property owners list on the plan.

15. Mr. Battista testified that he would have the plan corrected to properly identify the north elevation and add the 200-foot property owners list. This will be a condition of approval.

16. The porch will not be used as living space. This will be a condition of approval.

17. Mr. Battista testified that the proposed setback at the Property will remain compatible with the setbacks of neighboring lots.

18. 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. While the proposed front porch will exacerbate the pre-existing non-conforming front setback dimension at the Property, said front setback will still be consistent and compatible with other front setbacks on lots in the vicinity of the Property.
4. The front porch addition will promote greater enjoyment of the dwelling and Property by Applicants 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. Moreover, the porch will 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 for minimum front yard setback will not conflict with the purposes of the R-11 zone district.
8. The requested 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 31.4 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 Applicant for maximum building coverage can be granted.

11. The Property is undersized, and additional land is not available for purchase to enable the Property to be brought into compliance with the maximum building coverage requirements of the Zoning Ordinance.

12. The porch addition will provide an upgrade to the dwelling and promote a more desirable visual environment at the Property. These are purposes of zoning pursuant to the MLUL, N.J.S.A. 40:55D-2(e) and (i).

13. Based upon the foregoing, the strict enforcement of the maximum building coverage requirements of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon Applicants.

14. In addition, the benefits to be obtained from granting the variance for maximum building coverage outweigh any detriments which might result therefrom.

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

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

17. Accordingly, the Board concludes that a variance for maximum building coverage of 20.7% shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(1) and (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 maximum building coverage as outlined above. The Board voted on January 18, 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. 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.

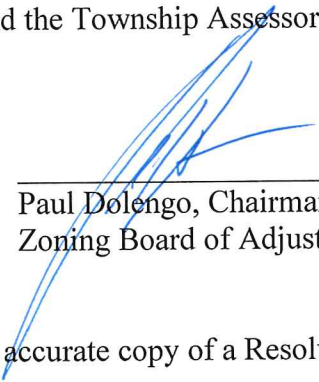
5. Applicants shall obtain the approval of any and all other necessary and appropriate City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.

6. The porch will not be used as living space.

7. Applicants shall comply with the comments and recommendations set forth in the January 16, 2018 report of Ms. Hartmann.


8. Applicants shall correct their plan to properly identify the north elevation and add the 200-foot property owners list.

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
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 February 1, 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, Mullen, Skowca, Bruce, Shuttlesworth,*
Rekey, Dalergo

No:

Abstain: