

TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Damyan and Kristen Schlachter
PROPERTY LOCATION: Block 804, Lot 2, 39 Oping Road
APPROVED: March 1, 2018
MEMORIALIZED: April 5, 2018

WHEREAS, Damyan and Kristen Schlachter (“Applicants”) have requested a variance for maximum building coverage to permit the construction of a second-story addition and an additional garage with a mud room and laundry room on property located at 39 Oping Road, known and designated as Block 804, Lot 2 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 February 2 and March 1, 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 11,907 square feet and is located at Block 804, Lot 2, 39 Oping Road in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is improved with a one (1) story single-family dwelling with a one (1) car garage (“Dwelling”).

4. Applicants request approval to construct a 16' x 10' two (2) story addition on the left (east) side of the Dwelling and a second garage on the right (west) side of the Dwelling. A new mud room/laundry room will be also located at the rear of the enlarged garage. A new front porch and attached rear deck are also proposed

5. The Property has one (1) pre-existing, non-conforming conditions in the R-11 zone, that of minimum front yard setback (50 feet required, 45.9 feet existing). This non-conforming condition will not be exacerbated by the instant application.

6. Applicants will require a variance for maximum building coverage (16% permitted, 18.4% proposed).

7. In the course of its presentation, Applicants revised their plans to reduce their initial proposal for building coverage, which was 21.7%, including a patio roof on the back of the Dwelling, a front addition to the garage and a shed on the Property.

8. Applicants agreed to remove the patio roof, front addition to the garage and shed. This will be a condition of approval. See also Paragraphs 17 and 18 below.

9. Applicants’ proposal is depicted on a plan prepared by Raymond Gregory, R.A., entitled “Proposed Addition to Schlachter Residence of Pequannock, New Jersey, 39 Oping Road, Block 804, Lot 2 ”, consisting of four (4) sheets, dated January 16, 2018, revised as of

February 22, 2018.

10. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated January 31, 2018, the contents of which are incorporated herein by reference.

11. At the Board's February 2, 2018 meeting, the Board heard the testimony of the Applicants' architect, Mr. Gregory and Damyan and Kristen Schlacter, the Applicants.

12. Mr. Gregory testified as to Applicants' plans. Applicants seek to construct a 16' x 10' (2) story addition on the left (east) side of the Dwelling.

13. An addition is also proposed at the right (west) side of the Dwelling, which will widen the existing garage by ten (10) feet, to 22' x 19' 4". The rear of the enlarged garage will also be the location for a new mud room/laundry room.

14. Applicants also propose a new 22' 8" wide front porch and an attached 23' x 10' rear deck. Mr. Schlachter testified that to provide the front porch, Applicants would be cutting six (6) feet into the front of the Dwelling.

15. The Board's Planner, Ms. Hartmann, and several Board Members expressed concern with errors and discrepancies on Applicants' plans and zoning table, including rear yard setback, side yard setback and combined side yard setbacks calculations. In addition, the Key Map on Applicants' plans failed to show the Dwelling.

16. As a result of the aforesaid deficiencies, as well as Board reservations regarding excessive building coverage, the Board suggested, and Applicants agreed, to reconsider and revise their plans and present same at the Board's March 1 meeting.

17. At the Board's March 1 meeting, Mrs. Schlachter testified and confirmed that

Applicants had revised their plans to remove a proposed patio roof on the back of the Dwelling and a front addition to the garage. Applicants also agreed to remove an existing shed on the Property. These deletions will be a condition of approval (see also Paragraph 8 above).

18. As a result of the aforesaid deletions, the building coverage at the Property was reduced to 18.4%. The Board requested, and Applicants further stipulated that, if necessary, they would undertake any other necessary measures to ensure that building coverage at the Property will not exceed 18.4%. This will be a condition of approval.

19. There were no objections to the requested variances by 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 Applicant for maximum building coverage can be granted.
3. The variance will provide sufficient space in an appropriate location for an upgraded single-family residential home in the Township, thereby further diversifying the Township's housing stock. This is a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(g).
4. In addition, the proposed development will promote a more desirable visual environment at the Property. This is also a purpose of zoning pursuant to the MLUL, N.J.S.A. 40:55D-2 (i).
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 18.4% 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 outlined above. The Board voted on March 1, 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.

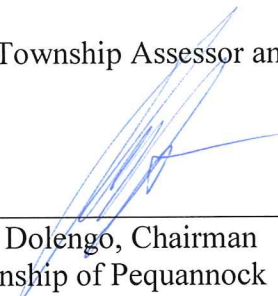
6. Applicants shall comply with the comments and recommendations set forth in the January 31, 2018 report of Ms. Hartmann.

7. Applicants shall remove from their plans the proposed patio roof on the back of the Dwelling and the proposed front addition to the garage.

8. Applicants shall remove the existing shed on the Property.


9. Applicants shall undertake any measures necessary to ensure that building coverage at the Property will not exceed 18.4%.

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 April 5, 2018.

 4/13/18

Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes:

No:

Abstain: