

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Daniel and Antonietta Henry
PROPERTY LOCATION: Block 2202, Lot 14, 6 Schelling Terrace
APPROVED: February 1, 2018
MEMORIALIZED: March 1, 2018**

WHEREAS, Daniel and Antonietta Henry (“Applicants”) have requested a variance for minimum front yard setback and maximum building coverage to permit the construction of a porch addition to an existing one-story, single-family residential dwelling on property located at 6 Schelling Terrace, known and designated as Block 2202, Lot 14 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 December 7, 2017, January 18, 2018 and February 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 12,709 square feet and is located at Block 2202, Lot 14, 6 Schelling Terrace in the Township of Pequannock (“Township”) in the Township’s R-11 zone district.

3. The Property is improved with a one-story single-family dwelling, an attached garage and a paver patio.

4. Applicants request approval to construct a new porch on the front of the dwelling.

5. The Property has the following pre-existing, non-conforming condition in the R-11 zone: minimum front yard setback (50 feet required pursuant to the Township Zoning Ordinance (“Zoning Ordinance”) 32.6 feet existing).

6. Applicants will require variances from requirements of the Township Zoning Ordinance (“Zoning Ordinance”) for minimum front yard setback (50 feet required by the Zoning Ordinance, 32.6 feet existing, 25.75 feet proposed) and maximum building coverage (16% permitted and existing, 18.97% proposed).

7. Applicants’ proposal is depicted on a plan prepared by Co-Applicant Daniel Henry, entitled “Porch Addition At Henry Residence, 6 Schelling terrace, Pompton Plains, NJ”, consisting of one (1) sheet, dated October 1, 2017, revised as of January 29, 2018.

8. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated November 29, 2017, the contents of which are incorporated herein by reference.

9. At the Board’s December 7, 2017 meeting, the Board heard the testimony of Daniel Henry and Antonietta Henry, the Applicants.

10. Ms. Henry testified that the Property is located on a cul-de-sac where other neighbors have added porches to their homes.

11. Ms. Henry testified that Applicants desire to add a porch to their dwelling to enhance their family's enjoyment of their home and to add curb appeal to the Property. .

12. Mr. Henry testified that the porch space would not be enclosed, and will not be used as living space. In addition, no addition shall be constructed over the porch. These will be conditions of approval.

13. Ms. Henry testified that she had spoken with all of her neighbors, who had no objection to the proposed porch.

14. The Board expressed concerns with regard to the accuracy of Applicants' plans, specifically the front yard setback, length and width of the proposed porch and impervious surface coverage.

15. As a result, it was agreed that Applicants would address these issues and re-submit their plans to the Board at its next regularly scheduled meeting on January 18, 2018.

16. At the Board's January 18, 2018 meeting, Ms. Henry again appeared with Applicants' contractor, Larry Steimel.

17. The Board again expressed concerns with regard to the depiction of the dimensions of the front yard setback and the width of the proposed porch on Applicants' plans.

18. The Board further expressed concern that Applicant's plans were not certified, nor were claimed revisions to the plans clearly delineated and annotated.

19. The Board requested, and Applicants agreed, that Applicants submit revised plans to the Board to address the foregoing concerns and present the revised plans at the Board's

February 1, 2018 regular monthly meeting.

20. The Board further suggested, and Applicant agreed, to reduce the width of the proposed porch to 9 feet and update the zone table on the plans.

21. At the Board's February 1, 2018 meeting, Mr. Steimel testified that the Applicants' plans had been revised to reduce the width of the porch to a range of 7.6 feet to the left, increasing to 9 feet in width. In addition, Applicants' front yard setback will not be less than 25.75 feet and requested building coverage will be at 18.97%.

22. Mr. Steimel testified that the plans had also been revised to ensure that all revisions were annotated and dated by the Applicants.

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 further exacerbate the pre-existing non-conforming front setback dimension at the Property, the front setback and porch will be consistent with other lots in the vicinity of the Property.

4. The front porch addition will promote greater enjoyment of the dwelling and Property by Applicants, their family and 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 front 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 25.75 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 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).

12. Based upon the foregoing, the benefits to be obtained from granting the variance for maximum building coverage outweigh any detriments which might result therefrom.

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

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

15. Accordingly, the Board concludes that a variance for maximum building coverage

of 18.97% 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 Applicants for minimum front yard setback and maximum building coverage as outlined above. The Board voted on February 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.

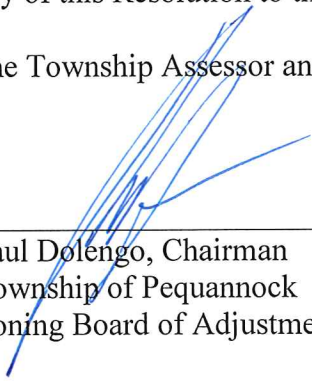
4. Applicants shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearing(s) on the date(s) referred to above and shall comply with all reports and comments submitted by the Board's Planner 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. The porch will not be enclosed or used as living space. No addition shall be constructed over the porch.

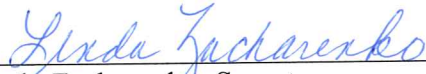
7. Applicant shall comply with the comments and recommendations set forth in the November 29, 2017 report of Ms. Hartmann.

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 March 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, Muller, Skowron, Weiss, Shuttleworth, Dolenz, Bikey*

No:

Abstain: