

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY**

MATTER OF: Jonathan and Margaret McBurney

PROPERTY LOCATION: Block 1303, Lot 40, 21 Winfield Avenue

APPROVED: November 2, 2017

MEMORIALIZED: December 7, 2017

WHEREAS, Jonathan and Margaret McBurney ("Applicants") have requested variances for minimum front yard setback and maximum building coverage to permit the construction of a one (1) story addition and porch addition to an existing one (1) story, single-family residential dwelling on property located at 21 Winfield Avenue, known and designated as Block 1303, Lot 40 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 November 2, 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.

I. 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 11,250 square feet and is located at Block 1303, Lot 40, 21 Winfield Avenue in the Township of Pequannock ("Township") in the Township's R-11 zone district.

3. The Property is rectangular in shape and is improved with a one (1) story ranch-style single-family dwelling with an attached one (1) car garage. A paver path in the front yard, a paver patio in the rear yard and a shed in the rear southeast corner are also located on the property.

4 Applicants request approval to construct a 7 foot by 17 foot one (1) story addition to the west side of the dwelling which permit the expansion of the dwelling's master bathroom, as well as the installation of a walk-in closet and a full bathroom.

5. Applicants also request approval to construct a covered open porch addition to an existing open porch at the front of the dwelling.

6. The Property has the following pre-existing, non-conforming conditions in the R-11 zone: minimum front yard setback 50 feet (or average) required under the Township Zoning Ordinance ("Zoning Ordinance"), 36 feet existing and maximum building coverage 16% permitted, 18.37% existing. Both of the foregoing pre-existing, non-conforming conditions will be exacerbated pursuant to the instant application.

7. Applicants will require variances for minimum front yard setback 50 feet (or average) required, 36 feet existing, 36 feet proposed (due to the covered porch addition) and maximum building coverage 16% permitted, 18.37 % existing, 20.35% proposed.

8. Applicants' proposal is depicted on plans prepared by Cindy J. Boerner-Lay, R.A., entitled "Addition and Renovation to the McBurney Residence, 21 Winfield Avenue, Pompton

Plains, NJ' consisting of five (5) sheets, dated August 4, 2017, revised as of October 5, 2017. Applicants also submitted a certified survey prepared by Donald P. Sweeney, P.L.S, consisting of one (1) page, dated July 25, 2013, and an undated plan, consisting of one (1) page, depicting the septic system at the Property.

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

10. The Board heard the testimony of Jonathan McBurney, the Co-Applicant.

11. Applicants purchased the Property in 2013. The existing dwelling dates back to the 1950's. The dwelling's back porch was converted to living space by previous owners. Applicants seek to upgrade the dwelling and bring same in compliance with applicable codes.

12. The Board heard the testimony of Cindy Boerner-Lay, Applicant's architect.

13. Ms. Boerner-Lay testified that Applicants' development plans include enlargement of the dwelling's existing kitchen to accommodate use by Applicants' family, conversion of the existing dining area into a den, addition of a master bathroom and the addition of a covered open porch. No new bedrooms will be added to the dwelling, so the existing septic system will provide sufficient capacity.

14. Ms. Boerner-Lay testified that neither the building nor the porch additions will have basement space. Said additions will have crawl space only.

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

16. Ms. Boerner-Lay testified that no windows will be installed on the addition at the east side of the dwelling.

17. Ms. Boerner-Lay addressed the variances for front yard setback and maximum building coverage requested by Applicant.

18. Ms. Boerner-Lay proffered, and the Board admitted as evidence, Exhibit A-1, setback data for lots in the vicinity of the Property, and A-2, photographs of all dwellings within 200 feet of the Property.

19. Ms. Boerner-Lay testified that the pre-existing, non-conforming front yard setback will not be exacerbated by the proposed development.

20. Ms. Boerner-Lay testified that the net increase in building coverage at the Property after development was 223.07 square feet.

21. Ms. Boerner-Lay testified that based upon her investigation, as reflected in the exhibits, three (3) of the four (4) ranch-style homes in the surrounding neighborhood exceeded the maximum building coverage permitted by the Zoning Ordinance.

22. Ms. Boerner-Lay testified that of the twenty (20) homes within 200 feet of the Property, nine (9) had covered porches. Accordingly, in her professional opinion, the addition of the proposed porch will make the dwelling more compatible with the existing neighborhood.

23. 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 has 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 pre-existing non-conforming front setback dimension will not be exacerbated by the proposed development.

4. The covered 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. 40:550-2(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. 40:550-2(1)

6. Based upon the foregoing, the benefits to be obtained from granting the variance for minimum front yard setback outweighs any detriments which might result there from.

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

8. Accordingly, the Board concludes that a variance for minimum front yard setback of 36 feet shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:550-70(C) (2).

9. The variance requested by Applicant for maximum building coverage can be granted.

10. The proposed deviation from the maximum building coverage requirements as a result of the development will make the dwelling more compatible with the homes in the neighborhood.

11. The addition will provide an upgrade to the dwelling and enhance the Township's housing stock. This is a purpose of zoning pursuant to the MLUL, N.J.S.A. 40:550-2(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(J).

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

14. The variance for maximum building coverage will not conflict with the purposes of the R-1 I 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 maximum building coverage of 20.35% shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c) (2).

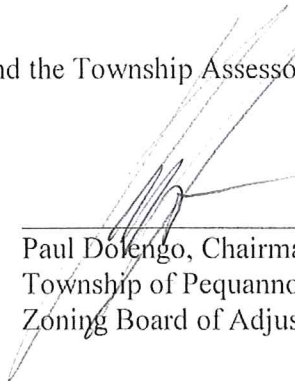
NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent 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 maximum building coverage as outlined above. The Board voted on November 2, 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. 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. The porch will not be used as living space.
7. Applicant shall comply with the comments and recommendations set forth in the October 29, 2017 report of Ms. Hartmann.

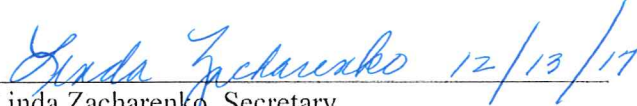
BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicants' expense and to send a certified copy of this Resolution to the Applicants, the

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 December 7, 2017.

 12/13/17

Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

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

Yes: *Hebert, Infield, Millers, Skvarca, Viteavick, Way*
Dolengo

No:

Abstain: