

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: 391 Ski Trail LLC c/o Elizabeth Caravella
PROPERTY LOCATION: Block 3707, Lot 20, 99 Pequannock Avenue
APPROVED: November 5, 2020
MEMORIALIZED: December 3, 2020**

WHEREAS, 391 Ski Trail LLC c/o Elizabeth Caravella (“Applicant”) has requested variances for minimum rear yard setback, minimum lot depth and maximum number of “risers” for a front entrance pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the construction of a new one (1) story single-family dwelling on property located at 99 Pequannock Avenue, known and designated as Block 4607, Lot 14 on the Tax Maps of the Township of Pequannock in the R-9 zone district (“Property”); and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on November 5, 2020; and

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

WHEREAS, Applicant 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 18,492 square feet and is located at Block 3707, Lot 20, 99 Pequannock Avenue in the Township of Pequannock (“Township”) in the Township’s R-9 zone district.

3. The Property is an oversized, interior lot and is entirely located in a flood plain. Pursuant to pending requirements of the Federal Emergency Management Administration (“FEMA”), the Property is designated as a Floodway.

4. The Property was previously the location of a single-family residence, which has been cleared with the exception of the foundation for said residence, as well as an existing one (1) story 22' x 37' masonry garage which will remain in place.

5. Applicant seeks to construct a new one (1) story single-family dwelling on the footings and concrete foundation of the previous residence remaining on the Property (“Dwelling”).

6. The Dwelling will be raised so that the residential area therein will be located at an elevation of 186 feet, 5 inches, a level 8 feet, 8 inches above grade. This meets the requirements of the New Jersey Department of Environmental Protection (“NJDEP”), pursuant to which the Dwelling must be constructed at a height 185 feet above sea level. The proposed elevation of the Dwelling also meets the pending FEMA height requirements referenced above, which mandate that the Dwelling be constructed at a height of 183 feet above sea level.

7. To effectuate the proposed development, Applicant requires variances for minimum rear yard setback for the Dwelling (25 feet required, 8.64 feet proposed), minimum rear yard setback for the detached garage (a pre-existing condition, 10 feet required, 4.79 feet

existing), minimum lot depth (a pre-existing condition, 125 feet required, 123.1 feet existing), and maximum number of “risers” at a front entrance (10 risers permitted, 12 risers proposed) pursuant to the R-9 zone district requirements set forth in §189.03.060 of the Township Zoning Ordinance (“Zoning Ordinance”). The aforementioned pre-existing non-conforming rear-yard setback for the detached garage and lot depth conditions will not be exacerbated by the proposed development.

8. Applicant’s proposal is depicted on plans prepared by Darmofalski Engineering Associates, Inc., Thomas A. Boorady, P.E., entitled “House Elevation and Variance Map for 99 Pequannock Avenue Block 3707, Lot 20, situated in the Township of Pequannock, County of Morris, New Jersey”, consisting of three (3) sheets, dated March 26, 2020, revised as of October 8, 2020.

9. Applicant also presented architectural plans prepared by Louis A. Salamone, Architect, A.I.A., entitled “99 Pequannock Ave., Pequannock, New Jersey”, consisting of seven (7) sheets, dated February 24, 2020.

10. The Board also received reports from its Professional Engineer, Andrew R. Hipolit, P.E., P.P., C.M.E, dated October 21, 2020 and the Township Planner, Jill A. Hartmann, P.P., A.I.C.P., dated November 2, 2020. The contents of these reports are incorporated herein by reference.

11. The Applicant’s attorney, Jeffrey Kassoover, Esq., briefly summarized the application.

12. The Board heard the testimony of Thomas A. Boorady, P.E., Applicant’s Engineer.

13. Mr. Boorady testified that the Property is located 150 feet from the Pompton River and slopes toward same. The Dwelling has been designed to meet pending FEMA and existing NJDEP elevation requirements.

14. Mr. Boorady testified that the Dwelling's lower basement will be equipped with ten (10) flood vents, which is the industry standard. This will be a condition of approval.

15. Mr. Boorady testified that the Property's existing macadam driveway will be removed and replaced without grading. He further testified that the proposed development would result in a net reduction in impervious surface coverage of nearly 1000 square feet as compared with the Property as previously developed.

16. Mr. Boorady testified that utilities for the Property and Dwelling will remain in the same locations and access the same connections as those used for the previous residence.

17. Mr. Boorady testified that, in his professional opinion, the requested variances advanced one or more of the purposes of zoning set forth in the MLUL set forth in N.J.S.A. 40:55D-2 (c), (e), (g) and (i), while not being detrimental to the public good or inimical to the Township's Master Plan or Zoning Ordinance. He further opined that the benefits of the requested variances outweighed the possible detriments thereof.

18. Mr. Boorady testified that Applicant's proposed development would require approval from the NJDEP. This will be a condition of approval.

19. 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. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.
2. The variances requested by Applicant for minimum rear yard setback can be granted.
3. The proposed rear setbacks for the Dwelling and existing garage will foster reasonable development of the Property in an appropriate location while permitting the replacement of an existing residence with a new dwelling which will add diversity to the Township's housing stock. This is a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(g).
4. The requested variances will also enhance public safety by making the Property compliant with current NJDEP and proposed FEMA flood elevation requirements. This is also a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(a).
5. Based upon the foregoing, the benefits to be obtained from granting the variances for minimum rear yard setback outweigh any detriments which might result therefrom.
6. The variances requested will not conflict with the purposes of the R-9 zone.
7. The variances will not be detrimental to the public good, nor will they substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.
8. Accordingly, the Board concludes that variances for minimum rear yard setback of 8.64 feet for the Dwelling and 4.79 feet for the detached garage shall be and hereby are granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(c)(2).
9. The variance requested by Applicant for minimum lot depth can be granted.
10. The pre-existing lot depth deficiency is *de minimus* and will not be exacerbated

by Applicant's proposed development.

11. As with the rear yard setback variance, the requested minimum lot depth variance will foster reasonable development of the Property in an appropriate location while permitting the replacement of an existing residence with a new dwelling which will add diversity to the Township's housing stock. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(g).

12. The requested variance will also enhance public safety by making the Property compliant with current NJDEP and proposed FEMA flood elevation requirements. This is also a purpose of zoning set forth in the MLUL, N.J.S.A. 40:55D-2(a).

13. Based upon the foregoing, the benefits to be obtained from granting the variance for minimum lot depth outweighs any detriments which might result therefrom.

14. The variance requested will not conflict with the purposes of the R-9 zone.

15. The variance will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance.

16. Accordingly, the Board concludes that a variance for minimum lot depth of 123.1 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).

17. The variance requested by Applicant for maximum number of risers for a front entrance can be granted.

18. The use of the additional risers as requested by Applicant will advance public safety by enabling the Property and Dwelling compliant with current NJDEP and proposed FEMA flood elevation requirements. This is also a purpose of zoning set forth in the MLUL,

N.J.S.A. 40:55D-2(a).

19. Based upon the foregoing, the benefits to be obtained from granting the variance for maximum number of risers outweighs any detriments which might result therefrom.

20. The variance requested will not conflict with the purposes of the R-9 zone.

21. The variance will not be detrimental to the public good, nor will it substantially impair the intent or purpose of the Township's Master Plan or Zoning Ordinance

22. Accordingly, the Board concludes that a variance for a maximum of 12 risers at the Dwelling's front entrance 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 rear yard setback, minimum lot depth and maximum number of risers for a front entrance. The Board voted on November 5, 2020 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 reports prepared by the Board's Planner, Ms. Hartmann, and the Board's Engineer, Mr. Hipolit.

7. The Dwelling's lower basement shall be equipped with ten (10) flood vents.

8. Applicant shall obtain approval for its development from the NJDEP.

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 December 3, 2020.

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: