

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: M. John Scanlan Funeral Home
PROPERTY LOCATION: Block 701, Lot 24, 781 Newark-Pompton Turnpike
APPROVED: May 6, 2021
MEMORIALIZED: June 3, 2021**

WHEREAS, M. John Scanlan Funeral Home (“Applicant”) has requested a use variance for expansion of a pre-existing non-conforming use to N.J.S.A. 40:55D-70(d)(2) and a variance to permit an accessory structure in a front yard pursuant to N.J.S.A. 40:55D-70 (c)(2) to permit the construction of a garage for funeral vehicles on property known and designated on the Tax Lots of the Township of Pequannock (“Township”) as Block 701, Lot 24, 781 Newark Pompton Turnpike (“Property”), with the Property located in the Township’s R-15 zone district; and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on May 6, 2021; and

WHEREAS, the Board heard the testimony by Applicants, 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. Applicants provided adequate notice of the application and the hearing in

accordance with the New Jersey Municipal Land Use Law, N.J.S.A.40:55D-1 et seq. (“MLUL”).

2. The Property, owned by Applicants, is located at Block 701, Lot 24, measuring 3.2 acres in area (140,964 square feet). The Property is located at the intersection of Newark-Pompton Turnpike and Mountain Avenue, in the Township’s R-15 zone district.

3. Residential uses are located to the west and south of the Property.

4. The Property is improved with a two (2) story commercial building which serves as the funeral home, a shed which serves the commercial building, a 1.5 story residential dwelling and back yard accessory structures which serve the residential dwelling.

5. The Property has been developed and used as a funeral home since the 1950's. The funeral home is a non-conforming use in the R-15 zone.

6. Applicant seeks to construct a 24' x 30' two (2) car garage in the front yard of the Property for the storage of funeral vehicles. .

7. To permit the requested development, Applicant requires a variance for expansion of a non-conforming use pursuant to N.J.S.A. 40:55D-70 (d)(2) and a bulk variances from R-15 zone district requirements for location of an accessory structure in the front yard of the Property pursuant to N.J.S.A. 40:55D-70(c)(2).

8. Applicants’ proposal is depicted on plans prepared by James P. Cutillo, R.A., P.P., entitled “Proposed Garage for M. John Scanlan Funeral Home, 781 Newark Pompton Turnpike, Pompton Plains, NJ, 07444 Lot 24, Block 701”, consisting of three (3) sheets, dated February 4, 2021. Applicant also submitted Planning Report from John McDonough Associates, LLC, John McDonough, L.A., A,I.C.P., P.P., consisting of five (5) pages of text and sixteen (16) pages of photographs, dated March 26, 2021.

9. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated May 5, 2021, the contents of which are incorporated herein by reference

10. Applicant's attorney, Frank E. Scangarella, Esq., briefly summarized the application.

11. Applicant is seeking a use variance allow the construction of a garage to store funeral vehicles in the front yard of the Property.

12. The Board heard the testimony of James P. Cutillo, R.A., P.P., Applicant's Architect and Planner.

13. Ms. Cutillo testified that Applicant has obtained approval from the Morris County Planning Board for the project.

14. Mr. Cutillo testified that Applicant does not require approval from the Morris County Soil Conservation District, because the proposed development will not disturb more than 5,000 square feet of soil.

15. Mr. Cutillo testified that the proposed garage will hold two (2) funeral service vehicles. However, Applicant does not intend to expand its vehicle fleet.

16. Mr. Cutillo testified that the proposed garage cannot be located closer to the commercial funeral parlor building due of the location of the Property's septic system.

17. Mr. Cutillo testified that the garage will be constructed at the end of an existing driveway in the southeast portion of the Property.

18. Mr. Cutillo testified that the garage will have barn doors that will slide open for ingress and egress. The garage will have coach-style lighting. The garage's attic space will not have a floor.

19. Mr. Cutillo testified that the no repairs will take place inside the garage. This will be a condition of approval.

20. The Board heard the testimony of Alexander Dougherty, P.P., A.I.C.P., Applicant's Planner.

21. Mr. Dougherty testified as to the variances requested by Applicant.

22. Mr. Dougherty testified that the garage will be screened on the Mountain Avenue side by 58 existing evergreen trees. He testified that Applicant will replace any dead trees at the Property.

23. Mr. Dougherty testified that storing Applicant's hearse and other funeral vehicles in the garage will alleviate the psychological effect on neighbors of having such vehicles in the plain view of the public on a continuing basis.

24. 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 requested use variance for expansion of a non-conforming use can be granted.

3. The testimony and evidence provided by Applicant and its witnesses indicate that the addition of the garage will not intensify the Property's present use.

3. The proposed garage and its location are also uniquely suited to the physical

dimensions of the Property and will be compatible with the residential uses which comprise the majority of uses in the area of the Property.

4. Applicant's testimony and exhibits further show that Applicant's proposed garage will satisfy the positive criteria for use variance relief under the MLUL. Applicant's development will permit the funeral home use presently taking place at the Property, an appropriate locus for the use, to continue without added disturbance to neighboring residential properties. This is a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(g).

5. In addition, the requested variance for expansion of a non-conforming use can be granted without further impairment to the intent and purpose of the Township's zone plan and Zoning Ordinance, satisfying the negative criteria required for use variance relief under the MLUL.

6. Accordingly, the Board concludes that a use variance for expansion of a non-conforming use to permit a the construction of a 24' x 30' two (2) car garage in the front yard of the Property shall be and hereby is granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-70(d)(2).

7. The variance to permit an accessory structure in a front yard can be granted.

8. The garage will upgrade the appearance and enhance the Applicants' usage of the Property by providing storage of commercial funeral vehicles when same are not in use. This is a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(i).

9. Based upon the foregoing, the benefits to be obtained from granting the variance to permit the garage in the Property's front yard outweigh any detriments which might result therefrom.

10. The variance for permitting the garage in the Property's front yard will not conflict with the purposes of the R-15 zone district.

11. 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.

12. Accordingly, the Board concludes that a variance from R-15 zone requirements to permit a garage in the Property's front yard 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 Applicant use variance relief pursuant to N.J.S.A. 40:55D-70(d)(2) for expansion of a non-conforming use and bulk variance relief for location of an accessory structure in a front yard pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the construction of a garage for business vehicles on the Property as outlined above. The Board voted on May 6, 2021 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. Applicants shall also 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. No repair of vehicles shall be permitted in the garage.

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 June 3, 2021.

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: