

TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Michael and Terri Canonico
PROPERTY LOCATION: Block 602, Lot 26, 8 Walnut Avenue
APPROVED: June 3, 2021
MEMORIALIZED: July 15, 2021

WHEREAS, Michael and Terri Canonico (“Applicants”) have requested variance relief for minimum side yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the construction of a one (1) story garage addition, to permit a roof over a existing paver patio, and Certification of Non-Conforming Structures pursuant to N.J.S.A 40:55D-68 for two (2) pre-existing non-conforming sheds on property known and designated on the Tax Lots of the Township of Pequannock (“Township”) as Block 602, Lot 26, 8 Walnut Avenue (“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 June 3, 2021; and

WHEREAS, the Board heard the 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, N.J.S.A.40:55D-1 et seq. (“MLUL”).

2. The Property, owned by Applicants, is located at Block 602, Lot 26, measuring 15,000 square feet in area.

3. The Property fronts on Walnut Avenue and is improved with a split-level frame dwelling (“Dwelling”) with an attached 10' x 24' garage (unusable due to size limitations), an attached rear yard paver patio and two (2) frame sheds. The two (2) frame sheds pre-date the 1984 zoning regulation of sheds in the Township. The Property is located in the Township’s R-15 zone district.

4. Applicants seek to convert the existing garage into living space by expanding an existing family room and creating a mud room. Applicants further seek to construct a new one (1) story, 26' x 14' garage addition on the west side of the Dwelling (“Garage Addition”) and a new roof to cover the existing rear yard paver patio.

5. To permit the requested development, Applicants require a bulk variance from R-15 zone district requirements for minimum side yard setback for one (1) side on the west side of the Property (15 feet required pursuant to the Zoning Ordinance, §189.03.040B.(6), 23.6 feet existing, 10.46 feet proposed) pursuant to N.J.S.A. 40:55D-70(c)(2). Applicants also request Certificates of Non-Conformity for the two (2) sheds on the Property pursuant to N.J.S.A. 40:55D-68.

6. Applicants’ proposal is depicted on plans prepared by WESKetch Architecture, Inc., William E.S. Kaufman, R.A., entitled “ WESKetch Project #5493, Michael and Terri Canonico, 8 Walnut Avenue, Pompton Plains, NJ, Alterations to the Canonico Residence”,

consisting of eight (8) sheets, dated August 12, 2020. Applicant also submitted a "Location Survey of the Property, prepared by Ballester, Eid & Lapatka, LLC, Stephen P. Eid, P.E., L.S., consisting of one (1) sheet, dated August 2, 2012, and four (4) photographs, two (2) photographs of the homes on Walnut Avenue which surround the Property, one (1) photograph of the proposed roof over the paver patio, and one (1) photograph of the location of the Garage Addition on the west side of the Dwelling.

7. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated May 19, 2021, the contents of which are incorporated herein by reference.

8. The Applicants' attorney, Steven C. Schepis, Esq., briefly summarized the application.

9. The Board heard the testimony of Michael Canonico, the Co-Applicant..

10. Mr. Canonico testified that Applicants had owned the property for nine (9) years and were desirous to expand the living space in the Dwelling by converting the existing garage into living space and constructing the Garage Addition on the left side of the Dwelling.

11. Mr. Canonico testified that the Dwelling's existing garage would be converted to a family room measuring 12' x 15' or 12' x 20' in area.

12. Mr. Canonico testified that the existing driveway on the Property would be expanded two feet (2') to service the Garage Addition.

13. Addressing the two (2) sheds in the rear yard of the Property, Mr. Canonico testified that said sheds were very old but had remained in place and were still used.

14. The Board heard the testimony of William E.S. Kaufman, R.A., Applicant's Architect.

15. Mr. Kaufman testified that Applicants' need for the side yard setback variance is caused by the physical location of the Dwelling on the Property.

16. Mr. Kaufman testified that Applicants intended to revise and upgrade the existing windows on the Dwelling to improve the Dwelling's front facade. A covered pavilion will also be located at the rear of the Dwelling.

17. Mr. Kaufman testified that the Garage Addition will not have windows. He confirmed that the existing garage space will be converted for expansion of the Dwelling's existing family room and construction of an attached mud room.

18. In response to an inquiry by the Board, Mr. Schepis stated there would be a 50' separation between the Garage Addition and the neighboring lot to the west.

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. Applicants have shown by testimony, exhibits and other evidence that the relief sought can be granted.
2. The variance requested by Applicants from Zoning Ordinance requirements for minimum side yard setback for one (1) side on the west side of the Property can be granted.
3. The proposed development will result in the material improvement of an existing single-family home, thus diversifying 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).
4. The conversion of the existing garage and expansion of the Dwelling's living

space, construction of the Garage Addition, coverage of the paver patio and related improvements will enhance the enjoyment and safety of the Property for Applicants' family members and guests. This is a purpose of zoning as set forth in the MLUL, N.J.S.A. 40:55D-2(a)

5. The requested variance for minimum west side yard setback will not negatively affect the appearance of the Property or those properties adjacent thereto.

6. Based upon the foregoing, the benefits to be obtained from granting the requested variance for minimum west side yard setback outweigh any detriments which might result therefrom

7. The variance for minimum west side yard setback will not conflict with the purposes of the R-15 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 from Zoning Ordinance requirements for a minimum side yard setback of 10.46 feet on the west side 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©)(2).

10. The Certificates of Non-Conformity for the two (2) sheds on the Property can be granted.

11. Applicants have, by testimony and evidence, proved to the satisfaction of the Board that the two (2) sheds were constructed prior to 1984, the commencement of Township zoning regulations applicable to such structures.

12. Accordingly, the Board concludes that Certificates of Non-Conformity for the two

(2) sheds on the Property as set forth in Applicant's plans shall be and hereby are granted pursuant to the authority conferred on the Board by N.J.S.A. 40:55D-68.

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 variance relief for minimum side yard setback on one (1) side pursuant to N.J.S.A. 40:55D-70(c)(2) and Certificates of Non-Conformity pursuant to N.J.S.A. 40:55D-68 as outlined above. The Board voted on June 3, 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:

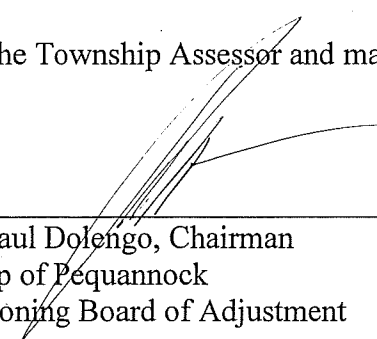
1. Applicants shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicants shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be 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.

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 July 15, 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: