

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION
MORRIS COUNTY, NEW JERSEY
MATTER OF: Scott and Donna Dabice
PROPERTY LOCATION: Block 3201, Lot 9, 55 West Parkway
APPROVED: July 15, 2021
MEMORIALIZED: August 5, 2021**

WHEREAS, Scott and Donna Dabice (“Applicants”) has requested a variance for minimum front yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) to permit the construction of a covered front porch attached to an existing single family residential dwelling on property known and designated on the Tax Lots of the Township of Pequannock (“Township”) as Block 3201, Lot 9, 55 West Parkway (“Property”), with the Property located in the Township’s R-22 zone district; and

WHEREAS, a public hearing was held before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on July 15, 2021; 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, N.J.S.A.40:55D-1 et seq. (“MLUL”).

2. The Property is a corner lot, owned by Applicants and located at Block 3201, Lot 9, 1 measuring 22,000 square feet in area. The Property has frontage on West Parkway and Jacksonville Road and is improved with a two (2) story frame dwelling (“Dwelling”) with a rear wood deck, paver patio and above-ground pool with its own wood deck. A frame shed is located in the northwest corner of the Property’s rear yard. The Property is located in the Township’s R-22 zone district.

3. Applicant seeks to construct a new 14' x 5' covered and attached porch at the front of the Dwelling.

4. The Property has two (2) pre-existing, non-conforming conditions in the R-22 zone. First, pursuant to the Township Zoning Ordinance (“Zoning Ordinance”) §189.03.030 B.(9), a minimum lot depth of 200 feet is required. The Property has a lot depth of 190.7 feet. Second, pursuant to the Zoning Ordinance, §189.03.030 B.(5) a minimum rear yard setback of 50 feet is required. The Property has a rear setback of 43.92 feet. Neither of these pre-existing, non-conforming conditions will be exacerbated by the proposed development.

5. To permit the requested development, Applicant requires a variance from R-22 zone district requirements for minimum front yard setback on West Parkway (50 feet required pursuant to the Zoning Ordinance, §189.03.030B.(4), 29.5 feet existing, 25.79 feet proposed).

6. Applicants’ proposal is depicted on plans prepared by GTFM LLC Design and Build, Douglas S. Battersby, R.A., entitled “Proposed Addition, Dabice Residence, 55 West Parkway, Pompton Plains, NJ 07444” consisting of two (2) sheets, dated April 21, 2021. Applicant also submitted a Certified Survey prepared by DAB Surveying, Inc., Douglas B.

Smith, P.L.S., consisting of one (1) sheet, dated August 25, 2020.

7. The Board also received a report from its Professional Planner, Jill A. Hartmann, P.P., A.I.C.P., dated July 14, 2021, the contents of which are incorporated herein by reference.

8. The Board heard the testimony of the Applicants, Scott Dabice and Donna Dabice.

9. Mr. Dabice testified that he and his wife desired to install a porch to be able to sit upon with family and friends. The porch will also protect those entering the Dwelling from the elements.

10. Mr. Dabice testified that the porch will not be enclosed or used for residential space. This will be a condition of approval.

11. There were no objections to the requested variance 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 variance requested by Applicant from Zoning Ordinance requirements for minimum front yard setback can be granted.

3. The variance will upgrade the appearance and enhance the Applicant's usage and enjoyment of the Property and protect entrants to the Dwelling's front door from the elements while preserving the Property's residential character, including existing light, air and open space conditions therein. This is a purpose of zoning under the MLUL, N.J.S.A. 40:55D-2(e).

4. 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.

5. The variance for minimum front yard setback will not conflict with the purposes of the R-22 zone district.

6. 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.

7. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for a minimum front yard setback of 25.79 feet on West Parkway 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 a variance for maximum front yard setback pursuant to N.J.S.A. 40:55D-70(c)(2) as outlined above. The Board voted on July 15, 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. Applicant 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. The porch shall not be enclosed or used for residential space.

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 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 August 5, 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: