

HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
MARCH 16, 2020
4:00 PM

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board of Adjustment Chair, Mike Flanagan called the Special Meeting of the Board of Adjustment to order at 4:15 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act.

This meeting was held by conference call solely to adopt previously approved applications.

ROLL CALL

Ms. Taglairino called the roll. It went as follows:

Ms. Sovolos	Excused	Mr. Newlin	Present
Mr. Flanagan	Present	Mr. Maselli	Excused
Mr. Rosenbaum	Excused	Mr. Addonizio	Excused
Mr. Symonds	Excused	Ms. Chipperson	Present
Mr. Cammarata	Present		

Board Attorney, Gary Hall, and Board of Adjustment Secretary Lori Taglairino were also present.

ADMINISTRATIVE

Mr. Flanagan noted that the Verizon and Mezzalingua applications were carried until the April meeting.

MINUTES

No Minutes

RESOLUTIONS

Application BOA #01-20 Ronald Gold & Susan Newman
593 Spring Valley Road, B4/L32, R-1 Zone

Mr. Flanagan made a motion to adopt Resolution BOA# 01-20 Gold Newman as written. It was seconded by Mr. Newlin. On a voice vote, all were in favor of adopting the resolution.

Application BOA #02-20 Cerebral Palsy of North Jersey Inc.
1050 Mt. Kemble Avenue, B46.01/L7, B-2/AHO-1 Zones

Mr. Flanagan made a motion to adopt Resolution BOA# 02-20 CPNJ as written. It was seconded by Mr. Newlin. On a voice vote, all were in favor of adopting the resolution.

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 4.23

Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

**Ronald Gold & Susan Newman - Application No. 1-20
593 Spring Valley Road - Block 4, Lot 23
Adopted March 17, 2020**

WHEREAS, Ronald Gold and Susan Newman applied to the Harding Township Board of Adjustment for variances from Section 225-122(F)(1) of the Land Use and Development Ordinance, which requires a 100' minimum side setback, Section 225-122(C)(1), which limits the building area ratio to 4% when the property has a minimum front setback exceeding 150', and Section 225-115(B), which prohibits the enlargement of certain nonconforming structures, in order to permit construction of an addition to the current nonconforming detached garage and to authorize the current play equipment area in front of the residence on a lot located in a R-1 Zone at 593 Spring Valley Road and designated on the Township Tax Map as Block 4, Lot 23; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a meeting on February 20, 2020 at the Harding Township Municipal Building, for which public notice and notice by applicant were given as required by law; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary based on the characteristics of this particular proposal and the requested variance relief in relation to the existing improvements on the property; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the meeting on February 20, 2020 the Board of Adjustment adopted an oral resolution approving the variance application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 17th day of March 2020, that the oral approval of the variance application of Ronald Gold and Susan Newman is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The applicants' property is located in the R-1 Zone at 593 Spring Valley Road. The property has a lot size of 3.2867 acres that exceeds the 3 acre minimum. The property is a corner lot due to additional frontage on Blue Mill Road.

2. The property is improved with a single-family residence that has conforming setbacks, including a conforming front setback of 150.4' versus a minimum requirement of 150' that applies due to a total building area of more than 3,920 square feet, and also a conforming building area ratio of 3.95% versus an applicable maximum requirement of 4%, as shown on a zoning table and on a variance plan prepared by John Ferrante, P.E., initially dated September 9, 2019 and last revised December 30, 2019.

3. The residence was constructed pursuant to approval by the Board of Adjustment of Application No. 7-07, as set forth in a Resolution adopted on May 7, 2007, which is incorporated herein by reference.

4. The applicants proposed to construct a one-bay addition to the existing three-bay detached garage, as shown on the variance plans and on architectural plans prepared by Beer Architectural Group, LLC, initially dated December 31, 2019.

5. The proposed addition to the detached garage would have a minimum north side setback of 86.2', requiring a variance from the 100' minimum setback requirement in Section 225-122(F)(1).

6. The proposed improvements would increase the conforming building area ratio from 3.95% to 4.16%, requiring a variance from the 4% maximum in Section 225-122(C)(1) that applies because all front setbacks are at least 150'.

7. The proposed addition requires a variance from Section 225-115(B) to allow enlargement of a nonconforming structure, since the existing garage has a nonconforming location that is technically in front of the principal residence relative to Spring Valley Road contrary to Section 225-116(D)(1).

8. At the public hearing, it was determined that variance relief was also required from Section 225-116(D)(2) to authorized the current location of the play equipment, and the application was amended to request such variance relief.

9. The applicants were represented in proceedings before the Board of Adjustment by Nicole Magdziak, Esq. of Day

Pitney, LLC.

10. Testimony in support of the application was provided by engineer John Ferrante and by architect Jeffrey Beer, who explained the proposed improvements. The previously submitted plans were proposed to be slightly revised to add a window to the rear of the garage addition similar to the rear windows on the current garage. The addition would be indented by 1'-8" to the front and rear relative to the building line for the current garage in order to maintain the current minimum setback of slightly more than 150' from Spring Valley Road, while also matching the current roof pitch. The upper level of the current garage would continue to be used for storage purposes only. The roofline of the addition would be slightly lower than the current garage, which was stated to have a calculated height of 25' or less in compliance with the maximum limit for accessory structures.

11. The applicants agreed that as conditions of any variance approval, prior to issuance of a building permit for the garage addition, they would:

- a. Provide the Township Engineer with acceptable confirmation that the current garage has a conforming accessory structure building height.
- b. Replace the 3 floodlights on the back of the garage with down-facing shielded lights, subject to confirmation by the Township Engineer.
- c. Close out any open permits applicable to the property to the satisfaction of the Township Engineer.
- d. Submit corrected plans showing the revised window design and any other agreed upon changes, providing omitted setback figures and a corrected zoning table, subject to review and approval by the Township Engineer.

12. No member of the public or neighbor objected to the application.

13. The necessity for the requested setback variance to allow a setback of 86.2', rather than 100', for the garage addition is attributable to the location of the current garage and the absence of an alternate location for a one-bay garage addition. Alternative development sites on this property are restricted due to the two street frontages, unusual topography and other circumstances.

14. The reduced setback for the garage addition will not alter the conforming front setbacks for the residence and garage. The reduced setback will be opposite a shared driveway, rather than a usable yard area.

15. The need for variance relief from the 4% building area ratio limit in Section 225-122(C)(2) to allow the conforming building area ratio to be increased from 3.95% to 4.16% is attributable to the one-story design of the existing garage and proposed addition and also portions of the residence. These particular circumstances preclude construction of an additional garage bay without exceeding the 4% building area ratio limit.

16. The slight increase in the nonconforming building area ratio attributable to the garage addition will not alter the appearance of building mass.

17. To the extent that the current garage is characterized as being nonconforming due to location in front of the principal residence, the technical deviation is limited and was not raised when the residence and garage were constructed. Moreover, the garage addition will be located at the end of the garage that is most distant from the residence, and it will maintain the 150.4' front setback for the existing garage. Under these circumstance, the garage addition will not exacerbate the technical nonconforming deviation, and variance relief from Section 225-116(D)(1) is reasonable and appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

18. The property will continue to have a lot coverage ratio below the applicable 10% maximum.

19. The garage addition and related improvements will enhance the appearance of the applicants' property, which will offset any possible visual impact.

20. Under these particular circumstances, the proposed improvements will not result in any adverse impacts on adjacent properties or the surrounding community.

21. In the case of this specific property and proposal, the location of existing improvements, the enhanced setback for the 2 front yards, and unusual topographic conditions, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

22. The variance relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

Description of Variances

1. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Land Use and Development Ordinance to permit construction of a garage addition with a minimum north side setback of 86.2', as shown on a variance plan prepared by John Ferrante, P.E., initially dated September 9, 2019 and last revised December 30, 2019, and on architectural plans prepared by Beer Architectural Group, LLC, initially dated December 31, 2019 and revised February 5, 2020.

2. A variance is hereby granted from the 4% maximum building area ratio requirement in Section 225-122(C)(1) of the Ordinance to permit construction of an addition to the current detached garage that will increase the conforming ratio from 3.95% to 4.16%, as shown on the plans.

3. A variance is hereby granted from the restriction in Section 225-116 to authorize the existing location of a children's play equipment area in front of the principal residence, as shown on the plans.

4. A variance is hereby granted from the restriction against the enlargement of certain nonconforming structures in Section 225-115(B) of the Ordinance, if necessary, to allow enlargement of the applicants' nonconforming detached garage by construction of a one-bay addition, as shown on the plans.

Variance Conditions

These variances are granted subject to the following conditions:

1. The applicants shall obtain a building permit and any other necessary approvals.
2. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.
3. These variances are based on and authorize only the specific proposed improvements as set forth in the testimony and plans. New or amended variance approval may be required for any materially different improvements.
4. These variances are granted subject to the express condition that prior to issuance of a building permit for the garage addition, the applicants shall:
 - a. Provide the Township Engineer with acceptable confirmation that the current garage has a conforming accessory structure building height.
 - b. Replace the 3 floodlights on the back of the garage with down-facing shielded lights, subject to confirmation by the Township Engineer.
 - c. Close out any open permits applicable to the property to the satisfaction of the Township Engineer.
 - d. Submit corrected plans showing the revised window design and any other agreed upon changes, providing omitted setback figures and a corrected zoning table, subject to review and approval by the Township Engineer.
5. The variance to permit the children's play area to remain at its current location is limited to the existing equipment, which may be repaired, but not replaced, and may not be enlarged. This variance is also subject to a condition that this play equipment area shall be removed or relocated to a conforming location prior to any sale of the property absent new variance relief.
6. In accordance with Section 225-35(C)(1) of the Ordinance, these variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and is subsequently pursued in a reasonably diligent manner.

Vote on Resolutions

For the Oral Resolution: Chipperson, Newlin, Maselli, Rosenbaum, Addonizio, Cammarata & Flanagan.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Chipperson, Newlin, Cammarata & Flanagan.

Against the Form of the Written Resolution: None.

Cerebral Palsy of North Jersey, Inc. - Application No. 2-20 1050 Mt. Kemble Avenue - Block 46.01, Lot 7 Adopted March 17, 2020

WHEREAS, Cerebral Palsy of North Jersey, Inc. ("CPNJ") applied to the Harding Township Board of Adjustment for variances from Section 225-138(D) of the Land Use and Development Ordinance, which requires 30' side setbacks and 50' rear setbacks, in order to authorize a 29.1' side setback for a group home building and a 44' rear setback for an emergency generator and pad on a lot located in the AHO-1 Zone applicable as an overlay to a portion of the B-2 Zone at 1050 Mt. Kemble Avenue and designated on the Township Tax Map as Block 46.01, Lot 7; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a meeting on February 20, 2020 at the Harding Township Municipal Building, for which public notice and notice by applicant were given as required by law; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary based on the characteristics of this particular property and proposal; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the meeting on February 20, 2020, the Board of Adjustment adopted an oral resolution approving the variance application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 17th day of March 2020, that approval of the variance application of Cerebral Palsy of North Jersey, Inc. is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

23. The applicant's property is located at 1050 Mt. Kemble Avenue in the AHO-1 Zone applicable as an overlay to a portion of the B-2 Zone. This zoning was enacted as part of the Township's court-approved affordable housing plan to permit development of a 4-bed group home that will qualify for at least 4 credits toward the Township's affordable housing obligation. The Township was the former owner of this property, and it was conveyed to CPNJ for the specific purpose of constructing a group home.

24. The design and layout of the group home were shown on architectural plans prepared by Mistry Design, dated January 29, 2020. The existing conditions and location of the group home were shown on a plot plan and survey prepared by Dykstra Walker Design Group, dated January 28, 2020.

25. Following construction of the group home, an as-built survey indicated a north side setback of 29.1', rather than the intended setback of 30', as required by the zoning regulations.

26. The applicant requests variance relief to authorize this minor unintended deviation from the applicable minimum side requirement of 30' in Section 225-138(D).

27. After the initial application had been filed, it was amended to also request variance relief from the separate 50'

minimum rear setback requirement in Section 225-138(D) for an emergency generator pad behind the group home structure with a minimum rear setback of 44'. The pad has a size of 24 square feet that slightly exceeds the 20 square foot maximum for exclusion under Section 225-116(P).

28. The applicant was represented in proceedings before the Board of Adjustment by Matthew Capizzi, Esq., of Capizzi Law Offices, who filed the application, and by Catherine A. Nolan, Esq., of K & L Gates, who appeared at the public hearing.

29. Testimony in support of the application was provided by the applicant's engineer Mark Gimigliano of Dykstra Walker Design Group, which had prepared the plot plan and survey.

30. The testimony indicated that the building site had been located toward the north end of the property in order to avoid regulated freshwater wetlands and transition areas applicable to much of the property. The minor side setback deviation was attributable to inadvertent oversight related to a discrepancy between the architectural and engineering plans.

31. No neighbor or member of the public objected to the application.

32. The necessity for the requested setback variances is attributable to unusual circumstances of this property and proposal.

33. This property was specifically rezoned to provide for the group home in connection with the Township's affordable housing declaratory judgment settlement that was approved by the Superior Court, thus providing a significant public benefit.

34. The minor setback deviations will not be noticeable from Mt. Kemble Avenue. The emergency generator and pad will be located to the rear of the group home, and the abutting property consists of heavily travelled Route I-287. The abutting property to the north contains a parking area opposite the slightly reduced side setback.

35. Under these particular circumstances, the existing and proposed improvements will not result in any adverse impacts on adjacent properties.

36. In the case of this specific property and proposal, and the location and characteristics of the improvements, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicant by requiring removal of the small- portion of the group home that has a side setback of less than 30' and the portion of the generator pad exceeding the 20 square foot maximum, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

37. The variance relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

Description of Variances

1. A variance is hereby granted from the 30' minimum side setback requirement in Section 225-138(D) of the Land Use and Development Ordinance to authorize a group home with a minimum north side setback of 29.1', as shown on architectural plans prepared by Mistry Design, dated January 29, 2020, and on a plot plan and survey prepared by Dykstra Walker Design Group, dated January 28, 2020, as required to be revised.

2. A variance is hereby granted from the 50' minimum rear setback requirement in Section 225-138(D) of the Ordinance to authorize the rear setback of 44' for an emergency generator pad, as shown on the plans, as required to be revised.

Variance Conditions

These variances are granted subject to the following conditions:

7. The applicants shall obtain Health Department approval, a building permit and any other necessary approvals.

8. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a certificate of occupancy.

9. These variances are based on and authorize only the specific improvements as set forth in the testimony and plans, as required to be revised. New or amended variance approval may be required for any different improvements.

10. These variances are granted subject to the condition that the plot plan and survey shall be revised to shown the rear setback for the emergency generator pad and the addition of the term "underground" for the propane tank notation, along with a corresponding corrected zoning table, subject to review and approval by the Board Attorney.

11. In accordance with Section 225-35(C)(1) of the Ordinance, these variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and is subsequently pursued in a reasonably diligent manner.

For the Oral Resolution: Flanagan, Newlin, Maselli, Addonizio, Chipperson, Rosenbaum &

Cammarata.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Flanagan, Newlin, Chipperson & Cammarata.

Against the Form of the Written Resolution: None.