

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES**  
**REGULAR MEETING**  
**JULY 16, 2020**  
**7:30 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Board of Adjustment Chair, Mike Flanagan called the electronic meeting of the Board of Adjustment to order at 7:30 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act and State Executive Order 103.

**ROLL CALL**

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

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

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

**ADMINISTRATIVE**

Mr. Flanagan noted that the BOA# 17-18, New York SMSA Limited Partnership d/b/a Verizon Wireless application was carried until the August 20, 2020 meeting.

**MINUTES**

Mr. Flanagan made a motion to approve the February 20, 2020 minutes. It was seconded by Mr. Newlin. On a voice all eligible member were in favor of approving the minute.

Mr. Flanagan made a motion to approve the June 18, 2020 minutes. The motion as seconded by Ms. Sovolos. On a voice vote all eligible members voted to approve the minutes.

**ONGOING TRAINING**

Mr. Newlin proposed September for a possible date for the training session.

## **RESOLUTIONS**

Application BOA #04-20      Robert Corman & Laura Landy  
76 Lake Trail E, B44/L13, R-4 Zone

Mr. Flanagan made a motion to adopt BOA #04-20 Corman/Landy. The motion was seconded by Mr. Symonds. A roll call vote went as follows:

For: Mr. Newlin, Mr. Symonds, Mr. Addonizio, Ms. Chipperson, Mr. Rosenbaum, and Mr. Flanagan  
Against: None

Application BOA #05-20      Elizabeth & Garret Kramer.  
51 Fox Hunt Road, B51.01/L11, RR Zone

Mr. Flanagan made a motion to adopt BOA #05-20 Kramer with a clarification to the road width. The motion was seconded by Mr. Symonds. A roll call vote went as follows:

For: Mr. Newlin, Mr. Symonds, Mr. Addonizio, Ms. Chipperson, Mr. Rosenbaum, and Mr. Flanagan  
Against: None

## **OTHER BUSINESS**

### **Board of Adjustment Annual Report**

There was a discussion about the elements of the 2019 Annual Report. The Resolution will be voted on at the August meeting.

There was an additional discussion regarding possibly reducing the fee for playsets on non-conforming lots during the pandemic so children can play at home.

## **ADJOURNMENT**

Mr. Flanagan adjourned the meeting at 8:18

*Lori Taglairino*

Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

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**HARDING TOWNSHIP BOARD OF ADJUSTMENT  
RESOLUTION**

**Laura Landy & Robert Corman - Application No. 4-20  
76 Lake Trail East - Block 44, Lot 13  
Adopted July 16, 2020**

WHEREAS, Laura Landy and Robert Corman applied to the Harding Township Board of Adjustment for variances from Section 225-134(C) of the Land Use and Development Ordinance, which permits a maximum building area of 2,100 square feet, and from Section 225-134(F), which requires a minimum front setback of 25', to allow construction of an addition to provide an additional bedroom, modified front entry and related improvements to the residence on property located in a R-4 Zone at 76 Lake Trail East and designated on the Township Tax Map as Block 44, Lot 13; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a virtual meeting conducted electronically on June 18, 2020, for which public notice and notice by applicants 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 virtual public hearing; and

WHEREAS, at the meeting on June 18, 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 16th day of July 2020, that approval of the variance application of Laura Landy and Robert Corman is hereby memorialized as follows:

**Findings of Fact and Statement of Reasons**

1. The applicants' property is located at 76 Lake Trail East in a R-4 Zone. The property also has frontage on Alpine Trail, which the front entry faces. It has a lot size of 22,448 square feet, which significantly exceeds the minimum requirement of 9,000 square feet.

2. The property is improved with a single-family residence, as shown on a site plan included with architectural plans prepared by John M. Reimnitz, Architect, last dated April 17, 2020. The lot and existing residential improvements conform with all zoning requirements.

3. The applicants proposed to construct an addition to the lower level at the south end of the residence to provide an additional bedroom and related improvements. The addition would be in the area of a portion of an existing deck, and a replacement deck would be constructed extending out from the addition. Also, the existing garage would be converted to a home office, and the front entry would be modified and expanded. The proposed improvements were shown on floor plans and elevations included in the architectural plans.

4. The addition would increase the conforming total building area by 234 square feet from 2,100 square feet to 2,334 square feet, requiring a variance from the 2,100 square foot maximum in Section 225-134(C). The conforming building area ratio would be increased from 9.3% to 10.3%, which would continue to comply with the separate 15% maximum.

5. The proposed new roof would have overhangs of more than 4', thus requiring compliance with the 25' minimum front setback requirement. Two corners of the roof in the area of the modified front entry would have minimum front setbacks of 24' relative to Alpine Trail, requiring variance relief from Section 225-134(F).

6. The Township Department of Health commented on the variance application in a memorandum dated March 31, 2020, which stated that there would be no apparent adverse impact on the existing septic system and potable water supply well. The memorandum noted that a complete approval application would be required in connection with a request for issuance of a building permit.

7. Testimony in support of the application was provided by applicants Laura Landy and Robert Corman and by their architect John Reimnitz, who explained the objectives of the proposed improvements. Architect Reimnitz noted that the ridgeline elevation would not be altered, and he expressed the opinion that there would be no appreciable increase in the appearance of building mass. This was shown on building elevations included with the architectural plans.

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

9. The need for variance relief for the increased total building area is attributable to the low level design and appearance of the residence that result in a large building footprint relative to the amount of living space. The limit of 2,100 square feet will be exceeded by only 234 square feet, and the new building area ratio of 10.3% will be significantly lower than the separate 15% maximum permitted under Section 225-134(C).

10. The expanded residence will not have the appearance of containing excessive building bulk.

11. The proposed improvements will enhance the appearance and functional utility of the residence.

12. The increased building area will not result in any adverse impacts on adjacent properties under the particular circumstances of this property and proposal and the surrounding context with no residences in close proximity.

13. The deviation from the 25' front setback requirement is limited to 2 roof overhang areas with 24' setbacks, representing minor deviations with no appreciable impact. The roof overhangs will enhance the appearance of the residence.

14. In the case of this specific property, and the particular design and characteristics of the existing residence and proposed addition and improvements, 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).

15. 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 maximum building area limit of 2,100 square feet in Section 225-134(C) of the Land Use and Development Ordinance to permit construction of an addition and related improvements to the applicants' residence that will result in a new total building area of 2,334 square feet, as shown on architectural plans prepared by John M. Reimnitz, Architect, last dated April 17, 2020.

2. Variance relief is hereby granted from the 25' minimum front setback requirement in Section 225-134(F) to allow 2 roof overhang corners to have minimum front setbacks of 24' in relation to Alpine Trail, as shown on the plans,

**Variance Conditions**

These variance is granted subject to the following conditions:

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

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

3. These variances are based on and authorize only the specific improvements proposed by the applicants as set forth in the testimony, application and architectural plans. New or amended variance approval may be required for any materially different improvements.

4. 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: Addonizio, Chipperson, Maselli, Newlin, Rosenbaum, Symonds & Flanagan.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Addonizio, Chipperson, Newlin, Rosenbaum, Symonds & Flanagan.

Against the Form of the Written Resolution: None.

**Certified to be a True Copy**

By: \_\_\_\_\_

Lori Taglairino, Secretary

Dated: \_\_\_\_\_

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**HARDING TOWNSHIP BOARD OF ADJUSTMENT  
RESOLUTION**

**Elizabeth & Garret Kramer - Application No. 5-20**

**51 Fox Hunt Road – Block 51.01, Lot 11**

**Adopted July 16, 2020**

WHEREAS, Elizabeth and Garret Kramer applied to the Harding Township Board of Adjustment for temporary variances from Section 225-121(A) of the Land Use and Development Ordinance, which permits only one principal structure per lot, from Section 225-122(C), which permits a maximum building area ratio of 3%, and from Section 225-122(H), which permits a maximum lot coverage ratio of 10%, to allow an existing residence to remain temporarily while a new residence is constructed, and for a variance from Section 225-122(F)(1) to allow a new residence to have a minimum front setback of 143.9' notwithstanding a total building area of more than 3,920 square feet that triggers a 150' minimum front setback requirement, on property located at 51 Fox Hunt Road and designated on the Township Tax Map as Block 51.01, Lot 11; and

WHEREAS, the Board of Adjustment conducted a virtual public hearing on the application at a meeting on June 18, 2020 for which public notice and notice by applicants were given as required by law; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary, since the application principally involves temporary variance relief and similar variance relief was granted previously for this specific property; and

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

WHEREAS, at the virtual hearing on June 18, 2020, the Board of Adjustment adopted an oral resolution granting the requested permanent and temporary variance relief, 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 16th day of July 2020, that approval of the variance application of Elizabeth and Garret Kramer is hereby memorialized as follows:

**Findings of Fact and Statement of Reasons**

1. The applicants' property is located at 51 Fox Hunt Road in the RR Zone. Fox Hunt Road consists of an improved roadway located within a series of easements occupying the front 30' of the lots on opposite sides of the road, resulting in a combined right-of-way width of 60'. The property has a lot size of 4.6837 acres as measured to the right-of-way line and a lot size of 5.0017 acres including the right-of-way area.

2. The property is improved with a single-family residence, as shown on variance plans prepared by Yannaccone, Villa & Aldrich, LLC, dated March 21, 2020. The existing residential improvements conform with all zoning regulations.

3. The applicants propose to continue to reside in the current residence while a new residence is being constructed in front of it, as shown on the variance plans and on architectural plans prepared by Rosen Kelly Conway, last dated March 11, 2020. Upon completion of the new residence, the existing residence would be demolished. This proposal is contrary to Section 225-121(A), which permits only one principal structure on a lot. The applicants requested temporary use variance relief from this zoning requirement.

4. During construction, the property temporarily would have a maximum building area ratio of 4.01%, requiring temporary variance relief from the 3% maximum in Section 225-122(C).

5. During construction, the property temporarily would have a maximum lot coverage ratio of 11.09%, requiring temporary variance relief from the 10% maximum in Section 225-122(H).

6. The proposed new residence would have a minimum front setback of 143.9' requiring a variance from the 150' minimum in Section 225-122(F)(1) that will apply due to a total building area of more than 3,920 square feet.

7. Upon completion of the new residence and demolition of the existing residential improvements, the new improvements will comply with all zoning regulations, except for the front setback as to which variance relief is requested. Pursuant to Section 225-116(B), the lot size of slightly less than 5 acres does not necessitate variance relief to allow construction of fully conforming residential improvements.

8. The applicants were represented in proceedings before the Board of Adjustment by Thomas J. Malman, Esq. and Nicole Magdziak, Esq., of Day Pitney.

9. Testimony in support of the application was provided by the applicants and their engineer Candice Davis, P.E.

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

11. The proposed location of the new residence in front of the existing residence results in a limited deviation from the 150' minimum front setback requirement that will apply due to a total building area of more than 3,920 square feet. This deviation will be confined to a proposed open front entry portico. The front façade of the new residence will conform with the 150' minimum front setback requirement.

12. There was a discussion of possible alternates to avoid a front setback variance for the proposed new residence. Elimination of the proposed open front portico would result in a less attractive design with no significant offsetting zoning benefit. The design of the new residence does not involve excess building depth that might be further reduced. The alternative of siting the new residence to the rear of the current residence would result in an unusually large front setback that would be out of character relative to other homes on Fox Hunt Road and would significantly reduce the usable rear yard area. Also, shifting the new residence to the side would not entail an appropriate site layout for this neighborhood.

13. The variance plans showed the provision of temporary access to the existing residence during construction of the new residence. The applicants acknowledged that this proposal will require approval by the Construction Official and Health Department.

14. The applicants agreed to a time limit for the temporary variances and posting a performance guarantee to cover demolition costs and site restoration to ensure that two principal residences do not remain on the property beyond the term of any temporary variance relief.

15. In the case of this specific property and the location and characteristics of the existing and proposed improvements, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by requiring demolition of the existing residence prior to construction of the replacement residence. These circumstances satisfy both the positive criteria under N.J.S.A. 40:55D-70(c)(1) and the special reasons requirement under N.J.S.A. 40:55D-70(d) for the requested temporary variance relief.

16. The temporary 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.

17. In the case of this specific property and the location and characteristics of the existing and proposed improvements, strict application of the minimum front setback requirement would impose peculiar and exceptional practical difficulties on the applicants by requiring demolition of the existing residence prior to construction of the replacement residence. These circumstances satisfy both the positive and negative criteria under N.J.S.A. 40:55D-70(c)(1) for front setback variance relief for the proposed new residence based on the following:

- a. The proposed minimum front setback for the new residence of 143.9' is measured from the right-of-way line which is at a distance of 30' from the centerline due to a 60' wide right-of-way width. If Fox Hunt Road had a standard right-of-way width of 50', the front setback would be 148.9' versus an enhanced minimum requirement of 150'.
- b. The deviation from the 150' minimum will be limited to a modest open front entry portico. The front building façade will conform with the 150' minimum front setback.
- c. The testimony indicated the absence of a reasonable alternative design to eliminate this minor deviation from the 150' minimum, as described above.
- d. Fox Hunt Road has a right-of-way width of 60', rather than the more common 50' width, but the roadway itself has a paved width of only about 12'. Thus, there is an area of roughly 24' between the edge of the pavement and the right-of-way line. Accordingly, under the applicants' proposal the distance between the closest point of the residence and the edge of pavement would be more than 167'.
- e. The front setback for the new residence will be compatible with front setbacks for other residences on Fox Hunt Road.
- f. Under these circumstances, the deviation from the purpose of the enhanced 150' front setback requirement is very

minor and would have no adverse impacts on the neighborhood.

18. All of 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 temporary use variance is hereby granted from Section 225-121(A) of the Land Use and Development Ordinance to permit an existing residence to remain temporarily, subject to the specific conditions and time limits set forth below, while a new residence is constructed on the applicants' property, as shown on variance plans prepared by Yannaccone, Villa & Aldrich, LLC, dated March 21, 2020, and on architectural plans prepared by Rosen Kelly Conway, last dated March 11, 2020.

2. A temporary variance is hereby granted from the 3% maximum building area restriction in Section 225-122(C) of the Ordinance to temporarily allow a ratio of 4.01% during construction of a new principal residence, as shown on the variance and architectural plans.

3. A temporary variance is hereby granted from the 10% maximum lot coverage ratio restriction in Section 225-122(H) of the Ordinance to temporarily allow a ratio of 11.09% during construction of a new principal residence, as shown on the variance and architectural plans.

4. Variance relief is hereby granted from the enhanced 150' front setback requirement in Section 225-122(F)(1) of the Ordinance to allow a proposed new residence to have a minimum front setback of 143.9' as measured from the right-of-way line notwithstanding a building area exceeding 3,920 square feet, as shown on the variance and architectural plans.

**Variance Conditions**

These variances are granted subject to the following conditions:

1. The temporary variances shall expire as of the earlier of either: (a) 60 days after issuance of a temporary certificate of occupancy for the new residence; or (b) 24 months after issuance of the building permit for the new residence.

2. Prior to expiration of these variances: (a) the existing residence and any related residential improvements shall be demolished and removed; (b) all demolition debris shall be removed from the site; and (c) the former residence foundation shall be filled in and the site shall be stabilized consistent with applicable requirements.

3. In order to ensure compliance with the preceding time limit condition, the applicants shall post with the Township of Harding a performance guarantee to cover the cost of demolition and site restoration in the event that all required actions have not been taken by the applicants prior to expiration of the temporary variances. The performance guarantee shall be in a form acceptable to the Township Attorney or Board Attorney and in an amount determined to be sufficient by the Township Engineer.

4. The temporary variances shall not be effective and no building permit shall be issued for the new residence unless and until the following conditions have been met:

a. Approval and posting of the performance guarantee required by the preceding condition.

b. Health Department approval of continued occupancy of the existing residence while the new residence is being constructed.

c. Confirmation by the Construction Official that construction of the new residence will not interfere with temporary retention and occupancy of the existing residence, that the location of the existing residence will not interfere with construction of the new residence and that there will be no fire safety concerns, which confirmation may be made prior to issuance of a building permit for the new residence.

d. Payment by the applicants of any outstanding technical review fees.

e. A determination by the Township Engineer that any stormwater impacts of construction of the new residence prior to demolition of the existing residence will be appropriately addressed.

f. Compliance with all applicable legal requirements for issuance of a building permit.

5. These variances are based on and authorize only the specific proposal presented by the applicants as set forth in the testimony, application and plans, and the location of the new residence shall be consistent with the plans.

6. As a condition of the permanent variance, the portions of the new residence located within 150' of the front road line shall be limited to the footprint and open portico design shown on the plans.

7. Any outstanding technical review fees shall be promptly paid on request. In addition, the applicants shall maintain a full escrow balance that shall not be released until issuance of a certificate of occupancy.

8. These variances shall expire if a building permit for the new residence is not issued within one year of the date of this resolution.

**Vote on Resolutions**

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

Against the Oral Resolution: None.

For the Form of the Written Resolution: Flanagan, Newlin, Chipperson, Symonds, Rosenbaum & Addonizio.

Against the Form of the Written Resolution: None.

**Certified to be a True Copy**

By: \_\_\_\_\_  
**Lori Taglairino, Secretary**

Dated: \_\_\_\_\_