

HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
SEPTEMBER 17, 2020
7:30 PM

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board of Adjustment Chair, Mike Flanagan called the regular 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	Present
Mr. Rosenbaum	Present	Mr. Addonizio	Present
Mr. Symonds	Present	Ms. Chipperson	Present
Mr. Cammarata	Excused		

ADMINISTRATIVE

Mr. Hall, Board Attorney was present to note and carry BOA #06-20 529 Waterfront Properties to a Special Electronic Meeting to be held on September 30, 2020.

Mr. Flanagan made a motion to hold a Special Electronic meeting on September 30, 2020. On a voice vote all were in favor of having a Special Meeting.

Mr. Flanagan made a motion to carry application BOA #06-20 529 Waterfront Properties to the Special Electronic meeting on September 30, 2020. On a voice vote all were in favor of having a Special Meeting. Note that Mr. Addonizio recused himself from the vote

Steve Mlenak, was present, as Board Attorney for the Verizon application, along with Board Engineer, Paul Fox and Board Planner, McKinley Mertz. Board of Adjustment Secretary Lori Taglairino was also present.

RESOLUTION

Application BOA #09-20

David Cvijic
4 Oxford Lane, B5L22, RR-Zone

Mr. Newlin made a motion to adopt the Resolution BOA #09-20 David Cvijic with verbiage to paragraph regarding shielded lighting. It was seconded by Mr. Symonds.

For: Ms. Chipperson, Mr. Symonds, Mr. Newlin, Mr. Rosenbaum and Mr. Addonizio

Against: None

Recused: Mr. Maselli

MINUTES

None

OLD BUSINESS

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

Application BOA# 17-18

New York SMSA Limited Partnership d/b/a Verizon Wireless

8 Millbrook Road, B17/L1, PL Zone

Applicant requesting variance relief for use, per NJSA 40:55D-70(d) for a cell tower.

Presenting:

Richard Schneider, Attorney

Frances Boshulte, RF Manager

Dr. Eisenstein, RF Specialist

Chief Erik Heller, Witness

Robert Simon is an objecting attorney for this application.

A transcript of the testimony is appended to the minutes.

The application was carried to the October 15, 2020 meeting with no further notice. There is an anticipated Special Meeting which will be announced at that time.

Mr. Flanagan made a motion to extend the FCC Shot Clock until October 29, 2020. It was seconded by Ms. Sovolos. On a voice vote all were in favor of extending the Shot Clock.

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 10:40

Lori Taglairino

Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
RESOLUTION**

**David Cvijic & Christine Mikail - Application No. BOA 9-20
4 Oxford Lane - Block 5, Lot 22
Adopted September 17, 2020**

WHEREAS, David Cvijic and Christine Mikail applied to the Harding Township Board of Adjustment for variances from Section 225-122(F) of the Land Use and Development Ordinance, which permits maximum rear and side setbacks of 100' in the RR Zone, Section 225-122(F)(1), which requires enhanced minimum front setbacks of 150' if the total building area exceeds 3,920 square feet, Section 225-116(D)(1), which prohibits the location of accessory structures in front of the principal structure on a property, and Section 225-115(B), which prohibits the enlargement of nonconforming structures, to authorize construction of an in-ground swimming pool, pool patio and porch addition, installation of pool equipment and related improvements on property for which the applicants are contract purchasers located at 4 Oxford Lane in the RR Zone and designated on the Township Tax Map as Block 5, Lot 22; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a virtual special meeting on August 25, 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 public hearing; and

WHEREAS, at the meeting on August 25, 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 September 2020, that approval of the variance application of David Cvijic and Christine Mikail is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The subject property is located at 4 Oxford Lane in the RR Zone. It is a through lot, with access from the Oxford Lane frontage and frontage without access on James Street. It has a nonconforming lot size of 4.401 acres.

2. The property is improved with a single-family residence and related residential improvements, as shown on the site plan submitted with the application, as subsequently superseded by a zoning plan prepared by Yannaccone Villa & Aldrich, dated August 14, 2020. The residential improvements are nonconforming due to the front setback from Oxford Lane (100.9' vs. 150' minimum).

3. The applicants proposed to construct an in-ground swimming pool in the rear yard (relative to the residence orientation), a pool patio, a covered porch addition between the pool and the residence, a small interior alteration for a bathroom serving the pool and patio area, and pool equipment, as shown on the zoning plan and on architectural plans prepared by Brandes Maselli Architects, consisting of 2 sheets, dated July 17, 2020.

4. The pool and pool patio would have an identical minimum setback from the north side lot line of 70', requiring variance relief from the 100' minimum setback requirement in Section 225-122(F).

5. The new porch roof and steps would have minimum front setbacks of 145.2' and 146.1' from Oxford Lane, requiring variance relief from the enhanced 150' front setback requirement in Section 225-122(F)(1).

6. The proposed pool equipment would have a minimum front setback of 129.3' from James Street, requiring variance relief from the enhanced 150' front setback requirement in Section 225-122(F)(1).

7. The proposed pool equipment would have a location in front of the principal residence relative to James Street, requiring variance relief from the accessory structure location restriction in Section 225-116(D)(1).

8. Variance relief is required from the restriction against enlargement of nonconforming structures in Section 225-115(B).

9. Testimony in support of the application was provided by the applicants and by their engineer Candace Davis, P.E., of Yannaccone Villa & Aldrich, LLC.

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

11. There was a discussion of potentially adjusting the proposed location of the pool equipment to increase the 129' setback from James Street in order to reduce the deviation from the applicable minimum of 150'. It was determined that only a limited adjustment might be practical due to the location of an existing walkway and arch and that such an adjustment was not warranted, particularly in light of the substantial natural screening along the James Street frontage.

12. The proposed location for the pool and related improvements is the only practical location due to extensive regulated freshwater wetlands and transition areas occupying the southern portion of the property, the two front yards, and the location and orientation of the residence. The property opposite the proposed pool is public open space restricted against development, rather than being a privately-owned residential property.

13. The proposed pool would not have a pool deck on the north side opposite the neighboring property, and It would not be practical to modify the design of the proposed improvements to increase the proposed north side setback of 70'.

14. The applicants agreed to provide additional landscaped screening along the lot line opposite the pool. They also agreed that outdoor lighting of the pool area and north side of the residence would not be directed at adjoining properties and would be shielded so that glare will not be a nuisance to adjoining properties. Satisfaction of these conditions would be addressed by the Township Engineer, including a possible post-construction inspection. Based on these conditions, the pool improvements will not have any adverse impact on the adjacent public land.

15. The setbacks of slightly less than the 150' minimum from Oxford Lane for the porch roof and steps represents a minor deviation. The current residence has a nonconforming setback of 100.9', which is attributable to the lesser requirement of 100' that applied when the residence was constructed.

16. The proposed swimming pool represents a customary residential improvement in Harding Township, and it will enhance the residential use and utility of the applicants' property.

17. Construction of the pool and related improvements will not result in any adverse impacts on adjacent properties under the particular circumstances of this property and proposal.

18. Based on the environmental constraints, two front yards, and the location and characteristics of the existing and proposed improvements, denial of the requested variances would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed pool and related improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

19. 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 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 an in-ground swimming pool with a minimum north side setback of 70', as shown on the zoning plan prepared by Yannaccone Villa & Aldrich, dated August 14, 2020, and on architectural plans prepared by Brandeis Maselli Architects, consisting of 2 sheets, dated July 17, 2020.

2. Variance relief is hereby granted from the enhanced 150' minimum front setback requirement in Section 225-122(F)(1) of the Ordinance to permit construction of a porch roof and steps with minimum front setbacks of 145.2' and 146.1' from Oxford Lane, as shown on the plans.

3. A variance is hereby granted from the enhanced 150' minimum front setback requirement in Section 225-122(F)(1) of the Ordinance to permit the proposed pool equipment to have a minimum front setback of 129.3' from James Street, as shown on the plans.

4. A variance is hereby granted from the restriction in Section 225-116(D)(1) of the Ordinance to allow the proposed pool equipment to be located in front of the principal residence relative to James Street, as shown on the plans.

5. A variance is hereby granted from the restriction against enlargement of nonconforming structures in Section 225-115(B) of the Ordinance to authorize additions to the residence in connection with construction of pool improvements, as shown on the plans.

Variance Conditions

These variances are 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 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 plans. New or amended variance approval may be required for any materially different improvements.

4. These variances are granted subject to the conditions that:

a. There shall be no lighting of the pool area except for in-pool lights and low garden lights, and other outdoor lighting on the north side of the residence shall be shielded consistent with Paragraph 14.

b. Additional evergreen landscaping shall be installed along the north lot line to provide reasonable screening of the swimming pool and related improvements from the adjacent property.

c. Compliance with these conditions will be subject to review and approval by the Township Engineer, who may conduct a post-construction inspection.

5. These variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and subsequently is pursued in a reasonably diligent manner.

Vote on Resolutions

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

Against the Oral Resolution: None.

Recused: Maselli.

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

Addonizio.

Against the Form of the Written Resolution: None.