

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
OCTOBER 15, 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	Present		

ADMINISTRATIVE

Mr. Flanagan noted that there will be a Special Electronic Meeting on October 29, 2020.

Mr. Flanagan noted that BOA# 17-18 Verizon was being carried until the Special Electronic Meeting scheduled for October 29, 2020 with no further notice.

Mr. Flanagan noted that BOA#07-20 Dowling has withdrawn their application.

Mr. Flanagan noted that the Board attended training session regarding zoning and stormwater.

Mr. Flanagan noted that there will be a second training session about plan reading scheduled for November 19, 2020.

RESOLUTION

Application BOA #08-20

Mark Drzala

50 Ravenswood Lane, B25.02 L10.11, R-R Zone

Mr. Flanagan made a motion to adopt the Resolution BOA #08-20 Drzala regarding shielded. It was seconded by Mr. Newlin

For: Addonizio, Chipperson, Flanagan, Maselli, Newlin, Rosenbaum & Symonds.
Against: None

Application BOA# 06-20

529 Waterfront Properties, LLC
PO Box 1303, Beach Haven, NJ 08008

Mr. Flanagan made a motion to adopt the Resolution BOA #06-20 529 Waterfront Properties, LLC with the resolution to be held until the escrow has been satisfied. It was seconded by Mr. Newlin.

For: Chipperson, Flanagan, Newlin, Maselli & Rosenbaum.
Against: None

MINUTES

Mr. Flanagan tabled the September 17th & 30th minutes until the next meeting.

NEW BUSINESS

Application BOA# 11-20

John and Joy Dalena
204 Blue Mill Road, B9L3.01RR Zone
Applicant is requesting variance relief for lot coverage and an accessory structure in front of a dwelling as per NJSA 40:55D-70(c)

Presenting:
John and Joy Dalena, Owners

Mr. Hall swore in the Dalenas for testimony.

- Mrs. Dalena presented proposed plans to relocate generator and air conditioner units to the front of their dwelling. Presently they are on the sleeping side of the house.
- Mrs. Dalena noted that the property is heavily fenced. She added that they would additionally screen the units.
- Aerial photos were presented to show the property and existing conditions on the property.
- Plans were presented to show the existing and proposed location of the units.
- Mr. Hall noted that the lot coverage overage was detected as a variance along with a front setback because of the 3920 sq. ft. additional setback requirement of 150 ft.

Mr. Flanagan made a motion to approve the application contingent upon the following:

1. That the survey and separate zoning table shall be revised to show correct zoning criteria
2. The noted setback line of 150 ft.,
3. The specific location, dimensions and front setback figures shall be shown for the equipment and pads.
4. The locations for additional landscaping screening.

The motion was seconded by Ms. Chipperson . A roll call vote went as follows:

For: Ms. Chipperson, Mr. Flanagan, Mr. Newlin, Mr. Addonizio, Mr. Maselli, Mr. Symonds & Mr. Rosenbaum.

Against: None

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 8:10

Lori Taglairino

Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION

Denial of Appeal of Tree Removal Permit for Gargiulo Property 595 Van Beuren Road - Block 5, Lot 8

**529 Waterfront Properties, LP, Appellant - Application No. BOA 6-20
Adopted October 15, 2020**

WHEREAS, 529 Waterfront Properties, LP filed an appeal with the Harding Township Board of Adjustment in accordance with N.J.S.A. 40:55D-70(a) and Ordinance Section 225-111(C) challenging a decision by the Township Tree Conservation Officer to issue a tree removal permit to Michael and Patricia Gargiulo authorizing removal of 28 trees on the flag staff portion of their property located at 595 Van Beuren Road in the RR Zone and designated on the Township Tax Map as Block 5, Lot 8; and

WHEREAS, the Board of Adjustment conducted a public hearing on the appeal at virtual meetings using the Zoom platform on August 25, 2020 and September 30, 2020, for which public notice and notice by appellant were given as required by law; and

WHEREAS, Township Tree Conservation Officer John Linson testified and was questioned by the Board of Adjustment, counsel for 529 Waterfront Properties LP, and counsel for the Gargiulos; and

WHEREAS, during the public hearing process, testimony, documents and oral arguments were presented by counsel for 529 Waterfront Properties, LP and by counsel for the Gargiulos; and

WHEREAS, members of the public were provided the opportunity to question all witnesses and provide comments; and

WHEREAS, after conducting further public hearing proceedings at the meeting on September 30, 2020, the Board of Adjustment deliberated concerning the appeal and then adopted an oral resolution denying the appeal based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 15th day of October 2020, that denial of the appeal by 529 Waterfront Properties, LP, challenging issuance of a tree removal permit by the Harding Township Tree Conservation Officer for property located at 595 Van Beuren Road and designated as Block 5, Lot 8 is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. Appellant 529 Waterfront Properties, LP, owns properties located at 585 and 589 Beuren Road, designated on the Tax Map as Block 5, Lots 6.01 and 6.02, that abut to the southwest the flag staff of a flag lot owned by Michael and Patricia Gargiulo, which has an address of 595 Van Beuren Road and is designated on the Tax Map as Block 5, Lot 8.

2. 529 Waterfront Properties, LP is owned by members of the Battista family. The controlling member is Michael Battista, whose son and wife currently reside in the residence on Lot 6.02. Lot 6.01, which is undeveloped, abuts both the flag staff and the main portion of the Gargiulo property.

3. The main portion of the Gargiulo property is improved with a recently constructed residence that replaced a prior residence that was demolished by the Gargiulos. The flag staff contains a driveway that provides the sole access to Van Beuren Road for the Gargiulo property.

4. The driveway in the flag staff of the Gargiulo property also currently provides the sole vehicular access to the residence on Lot 6.02, though Lot 6.02 is also served by an unimproved private road lot designated as Block 5, Lot 6.03 that was created by a subdivision approved by the Planning Board by resolution adopted on July 28, 2003 on Application PB 6-03. The subdivision approval resulted in each of the 2 pre-existing residences on former Lot 6 being on a separate parcel. This subdivision approval specifically granted an exception from the Ordinance requirement to improve the newly created private road lot for vehicular access, but it did not preclude future improvement of the private road lot. The private road lot remains unimproved, and the pre-existing residence on current Lot 6.02 has continued to use the driveway in the Gargiulo flag

staff for access to Van Beuren Road.

5. On December 23, 2019, Harding Township Tree Conservation Officer John Linson conditionally approved an application submitted on behalf of the Gargiulos to authorize removal of 28 trees on the flag staff of the Gargiulo property pursuant to the Township Tree Conservation regulations set forth in Township Code Section 225-111.

6. The approval issued by Mr. Linson was subject to replanting approximately 370 trees in accordance with the submitted landscape plan and submission of an escrow deposition in the amount of \$8,400 in connection with the replanting requirement.

7. As a result of initial tree removal activity in the flag staff of the Gargiulo property, a dispute arose between 529 Waterfront Properties (Battista) and the Gargiulos that was followed by reciprocal litigation focusing on conflicting access claims involving the flag staff of the Gargiulo property and the right of the Gargiulos to proceed with tree removal and replacement within the flag staff.

8. On or about June 9, 2020, appellant filed an appeal of the tree removal permit with the Board of Adjustment under Ordinance Section 225-111(C), which included the requisite application/appeal form and a description of the action being appealed and the grounds for the appeal. This appeal was filed by Mr. Battista, but the papers listed appellant as 529 Waterfront Properties, LP, which has been represented in proceedings before the Board of Adjustment by attorney Arnold C. Lakind, Esq., of the law firm of Szaferman, Lakind, Blumstein & Blader, P.C.

9. The Gargiulos have been represented in proceedings before the Board of Adjustment by Frank Vitolo, Esq., of the law firm of Riker Danzig Scherer Hyland Peretti, LLP.

10. Prior to the initial hearing, the Board Attorney issued a memorandum providing background information, including copies of Township Code Section 225-111 containing the tree conservation regulations and documents constituting the record that served as the basis for issuance of the tree removal permit by the Tree Conservation Officer.

11. The Board Attorney expressed the opinion that pending litigation between the Gargiulos and 529 Waterfront Properties concerning the existence and scope of any access rights as to the driveway within the flag staff of the Gargiulo property involved matters within the exclusive jurisdiction of the Superior Court. Accordingly, the Board did not hear or consider any evidence or testimony as to such legal issues during the public hearing proceedings. Proceedings before the Board of Adjustment were confined to the narrow issue of whether the Tree Conservation Officer's decision was contrary to the tree conservation provisions in Section 225-111 of the Township Land Use and Development Ordinance.

12. At the start of the hearing, the Board Attorney stated that he had been informed that any issues as to timeliness of the administrative appeal to the Board of Adjustment had been addressed by the Superior Court in connection with the pending litigation, in which an order had been issued establishing a deadline for appellant to perfect the administrative appeal. Counsel for the Gargiulos did not dispute that statement and agreed that there were no timeliness issues before the Board. Therefore, the Board of Adjustment did not hear or consider any testimony as to when Appellant knew or should have known that the contested tree removal permit had been issued that would have triggered the 20-day appeal limitations period in N.J.S.A. 40:55D-72(a).

13. Township Tree Conservation Officer Linson testified that the basic attitude in Harding Township was to defer to private property rights and try not to be over-restrictive in regulating tree removal, subject to replacement planting of trees. He indicated that the Gargiulos sought approval to remove 28 trees, while proposing replacement planting of approximately 370 trees.

14. Mr. Linson characterized the Gargiulos' proposal as follows:

In this case, the intention of the Gargiulos was to have a nice, well-screened driveway on both sides. So the net effect of the removal and replacement of these trees was not to diminish the screening between properties, but to enhance the screening between properties. I did not even take into account the idea that neighbors might have some kind of emotional attachment to the trees on this old farm road. (T16:5 to 13)

15. Mr. Linson testified that he walked the property with the Gargiulos' landscape architect and inspected every tree proposed for removal. They "identified three oak trees that were worthy of preserving." Otherwise, he stated that it was not practical to save ash trees due to the ash borer problem and that several would be removed. He noted the planned removal of some walnut trees, which he characterized as invasive and whose roots emit toxins harmful to other vegetation. He indicated that there were "other smaller trees, a cedar tree, a crabapple tree." Mr. Linson acknowledged that many of the trees authorized to be removed in order to implement the Gargiulos' plan were healthy, aside from the 4 ash trees and the catalpa tree described below.

16. Mr. Linson acknowledged controversy concerning the authorized removal of a 60-inch diameter Catalpa tree. He expressed the opinion that this tree was hollow based on testing the tree with a rubber mallet and the observation of raccoon feces at the base of the tree indicating a likely raccoon nest in a cavity in the tree trunk in the tree canopy. Though he didn't view this as an emergency situation, he opined that the tree was more susceptible than other trees to falling during a significant wind event, and if the tree fell, it would land on the Battista (529 Waterfront Properties, LP) property causing damage for which the Gargiulos presumably would be responsible.

17. Tree Conservation Officer Linson concluded his direct testimony by stating that:

To me, it was a standard application that really was a positive thing for Harding Township. We were not losing canopy coverage, but we were gaining canopy coverage. We were replacing ash trees that were going to die anyway. We were going to be removing a hazardous catalpa tree before it failed and fell into a neighboring property. So this is where I was coming from when I approved the application.

18. In response to questioning, Mr. Linson acknowledged that the tree removal application submitted on behalf of the Gargiulos listed the reason for the requested tree removal as "installation of utilities & driveway improvements." However, he stated that neither subject was ever discussed or relied upon as a reason for the requested tree removal. He testified that he principally relied upon the improved screening that would result from the extensive replacement plantings, which are specific considerations listed in Section 225-111(D)(5) & (10) that are required to be considered in connection with issuance of tree removal permits under Section 225-111(C). He stated that he did not rely upon the tree removal permit exemptions in Section 225-111(B)(2), since a permit was required to remove trees in the flag staff, the entirety of which constituted a regulated tree conservation area under Section 225-111(B)(1)(d)[3].

19. Mr. Linson testified that the escrow deposit amount was calculated based on \$300 per tree authorized to be removed. In this case, 28 trees were authorized to be removed, resulting in a required escrow amount of \$8,400 (28 X \$300). This requirement is set forth in Township Code Section 171-20, which provides for return of 75% of the escrow following completion of replanting and inspection with the balance to be retained for 2 years after the initial inspection and pending a final inspection.

20. Mr. Linson acknowledged in response to a question that the tree removal permit had not been considered by the Shade Tree Advisory Committee. He stated that he and Caron Menger were the active members of the Committee, which had not held a meeting during 2020. He further stated that that practice had been to not refer every application to the full Committee formal action and that the Gargiulo application was perceived as a standard non-controversial application.

21. Attorney Lakind presented testimony by professional planner Richard Schommer, who described the flag lot and surrounding

properties. He stated that he had reviewed the Township Master Plan and noted that it includes provisions concerning tree conservation. The Board determined that his professional planning background did not encompass tree removal issues and that he was not qualified to opine as to the propriety of the Tree Conservation Officer's decision to issue a tree removal permit.

22. Attorney Lakind presented the testimony of Lauren Battista, who resides with her husband Michael Battista, Jr., in the residence on Lot 6.02 that is owned by Appellant and abuts the flag staff of the Gargiulo property. She testified concerning her interest in preserving current conditions of the surrounding area and her view across the Gargiulo flag staff. She also noted her interest in retention of the Catalpa tree on the Gargiulo flag staff based on its size, age and role in providing food for bees that she maintains. In response to a question, she acknowledged that Appellant 529 Waterfront Properties had recently obtained subdivision approval to create 2 new lots on currently undeveloped land on the opposite side of Lot 6.02 that could be sold and developed, which would materially alter the character of this area.

23. Appellant offered testimony by William Logan, who was an expert with primary experience in connection with different tree issues in New York, but had no demonstrable experience in New Jersey land use or tree removal permitting matters and was not registered as an arborist in New Jersey. This prompted extensive discussion as to his qualification to opine as to the propriety of the decision to issue a tree removal permit under the Harding Township Ordinance. It was ultimately decided that limited testimony would be permitted, but time constraints due to the late hour precluded that from happening at the initial hearing.

24. At the continued hearing, attorney Lakind presented testimony by a different tree expert, Matthew Weibel, who was a licensed arborist in New Jersey and had considerable experience in New Jersey. His testimony focused on criticism of the Gargiulo tree replacement plan that involved extensive use of Green Giant Juniper trees that would obstruct views from Appellant's property and eliminate the upper level tree canopy of deciduous trees that would be removed, which he characterized as a loss of screening. He expressed the opinion that a variety of native species should be planted instead of using only one non-native species. He did not cite any provision of the Tree Conservation Ordinance to support his criticism of Mr. Linson's issuance of the tree removal permit and approval of the Gargiulo tree replacement plan. Thus, the thrust of Mr. Weibel's testimony represented criticism of the Ordinance. He also disagreed with Mr. Linson's assessment of the catalpa tree, which he viewed as having a low risk of falling.

25. Mr. Linson expressed agreement in general concept with Mr. Weibel's testimony, but he did not view it as being responsive to the requirements in the Ordinance, particularly as to the screening objective of the tree removal regulations. Mr. Linson emphasized his opinion that the screening objective focused on buffering views between adjacent properties, which would be advanced by the Gargiulo plan.

26. Attorney Lakind requested adjournment of the second hearing to allow him to present testimony at the next meeting by planner Creigh Rahenkamp who was unable to participate due to a medical situation. This request was discussed by the Board, which concluded that additional planning testimony by a second planner be duplicative and not relevant to the narrow issue at hand of determining whether issuance of the tree removal permit was improper under the Township Tree Conservation Ordinance. It was noted that planning testimony by Mr. Schommer had been presented by attorney Lakind at the initial hearing.

27. Attorney Vitolo presented brief closing comments on behalf of the Gargiulos expressing the position that Mr. Linson's decision should be upheld.

28. Appellant's attorney asserted in his closing statement that issuance of the permit was contrary to the Ordinance on both substantive grounds, including asserted impairment of Master Plan policies supporting preservation of the rural streetscape and similar high level policy statements in the Tree Conservation Ordinance, and procedural grounds, including the mis-statement of reasons on the tree permit application and a failure by the Tree Conservation Officer to forward the application to the Shade Tree Advisory Commission.

29. After due deliberation, the majority of the Board of Adjustment concludes that the decision by the Township Tree Conservation Officer to issue the contested tree removal permit to the Gargiulos should be affirmed for the following reasons:

- a. The Board of Adjustment's jurisdiction under N.J.S.A. 40:55D-70(a) is limited to review of the challenged administrative action based on consideration of Harding Township's tree conservation regulations as set forth in Township Code Section 225-111, entitled Tree Conservation. These provisions vest the Tree Conservation Officer with responsibility for review and issuance, if appropriate, of tree removal permits. The issue for the Board is to decide whether his decision was contrary to the Ordinance, not whether the Ordinance should be modified or whether a different decision would have been better.
- b. The fact that the permit application form was inaccurate as to the grounds for the tree removal request has no impact on validity of the permit. The Tree Conservation Officer provided uncontested testimony that he did not consider or base his decision on the erroneous statement of reasons in the permit application. Instead, his decision was grounded on inspection of the property and consideration of the Gargiulos' tree replacement plan. Therefore, this represents harmless error.
- c. The fact that the tree removal permit had not been considered by the Shade Tree Advisory Committee also did not impair the propriety of the tree removal permit. This assertion was not mentioned in the required statement of reasons submitted with the appeal papers and was not articulated during the hearing proceedings until attorney Lakind's closing argument and thus meaningful consideration could not be given to this contention. Regardless, any input from the Committee would have been advisory only, rather than being mandatory. Moreover, the undisputed testimony established that the Committee had not held a meeting during 2020, the practice had been to not refer every application to the full Committee for formal action, and that the Gargiulo application was perceived as a standard non-controversial application.
- d. The argument that the Board of Adjustment should reverse the Tree Conservation Officer's decision to issue the tree removal permit based on the contention that it was contrary to the broad objective of preserving rural character as articulated in the Master Plan and Tree Conservation Ordinance is rejected. The specific listing in Section 225-111(D) of 10 factors required to be considered does not include preservation of rural character, and the Board of Adjustment is not vested with the power or discretion to ignore the express wording of the Ordinance. Moreover, the Board of Adjustment cannot conclude that there is universal consensus as to the subjective concept of "rural character," and the Board is unwilling to issue a binding determination on that subjective basis. The Board of Adjustment possesses no legislative power, and whether the tree conservation regulations should include a more specific requirement implicates public policy considerations that are legislative matters for the governing body.
- e. The Tree Conservation Officer's determination to issue the permit based on his conclusion that the Gargiulo proposal would result in improved screening and that there would be extensive tree replacement was grounded on specific provisions in the Tree Conservation Ordinance (Code Section 225-111) that cannot be ignored. These provisions do not prohibit the proposed extensive use of the same species in the tree replacement plan, nor does it require use of native species. Accordingly, issuance of the tree removal permit cannot be classified as being arbitrary and capricious or otherwise improper.
- f. The Board of Adjustment engaged in specific deliberation as to the authorization for removal of the Catalpa tree, which at five feet in diameter was acknowledged to be a "large tree" under the Ordinance and therefore eligible for preservation. However, the Board ultimately concluded that the Board should defer to the Tree Conservation Officer's professional assessment of the

condition of the tree as potentially creating a safety concern, particularly in light of the fact that the tree is close to the property line and leans toward the neighboring property owned by appellants, creating potential liability for the owners of the Gargiulo property. Therefore, the Board concluded that the Gargiulos should not be precluded from removing this tree on their property.

Description of Decision

Based on the reasons set forth above, the Board of Adjustment hereby denies the appeal by 529 Waterfront Properties LP (and its principal Michael Battista) of the tree removal permit issued by the Tree Conservation Officer authorizing removal of 28 trees on the flag staff of the Gargiulo property conditioned on implementation of the tree replacement plan and thus affirms and upholds that administrative decision.

Vote On Resolutions

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

Against the Oral Resolution: Symonds.

Recused: Addonizio.

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

Against the Form of the Written Resolution: None.

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
RESOLUTION**

Mark & Saima Drzala - Application No. BOA 8-20

50 Ravenswood Lane - Block 25.02, Lot 10.11

Adopted October 15, 2020

WHEREAS, Mark and Saima Drzala applied to the Harding Township Board of Adjustment for a variance from Section 225-122(H) of the Land Use and Development Ordinance, which limits the maximum lot coverage ratio to 10%, to permit installation of a shed and to authorize existing excess lot coverage on their residential property located in a RR Zone at 50 Ravenswood Lane and designated on the Township Tax Map as Block 25.02, Lot 10.11; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a special meeting conducted on Zoom on September 30, 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 specific 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 virtual public meeting on September 30, 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 15th day of October 2020, that approval of the variance application of Mark and Saima Drzala is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The applicants' property is a lot located in a RR Zone at 50 Ravenswood Lane, which is at the end of cul-de-sac. This lot was created as part of a lot size averaged subdivision approved by the Planning Board by resolution adopted on January 23, 2006 on Application No. PB 4-04 that allowed a reduced lot size of 4.0318 acres for this lot, rather than the usual 5 acres.

2. The property is improved with a single-family residence, swimming pool, pool house and related improvements as shown on shed variance plans prepared by Murphy & Hollows Associates, LLC, initially dated April 6, 2020 and revised August 11, 2020.

3. The applicants requested a variance from the 10% lot coverage ratio limit in Section 225-122(H) of the Ordinance to permit installation of a shed in the side yard, resulting in a new ratio of 10.80%. In connection with preparation of the plans, it was determined that the existing lot coverage ratio of 10.67% had not been authorized by a prior variance from the 10% limit, thus requiring variance relief for the existing coverage in excess of 10% in addition to variance relief for the lot coverage associated with the shed.

4. Testimony in support of the application was provided by applicant Mark Drzala, who indicated that he had determined that the existing excess lot coverage was attributable to installation by his contractor of a wider driveway than shown on previously approved plans that had shown compliance with the 10% lot coverage ratio limit. He testified that the shed was proposed in order to provide storage for equipment and other items currently stored in one of the garage bays. The shed will allow this garage bay to be used for needed vehicle storage.

5. No neighbor or member of the public participated in the public hearing.

6. Board members expressed concern as to the existing and proposed lot coverage ratio and the extensive patio and driveway areas. Following discussion of these concerns, the applicant agreed to mitigate any impact of the shed and excess lot coverage by the following conditions:

a. The shed would be removed prior to any future conveyance of the property.

b. A reasonable landscaped buffer of the shed and additional landscaping that may reduce stormwater runoff will be shown on the plans and installed, subject to prior review and approval by the Township Engineer.

c. A dry well serving the roof area of the shed and also related stormwater runoff as reasonably practicable will be shown on the plans and installed subject to prior review and approval by the Township Engineer.

d. Confirmation will be provided from the surveyor that the submitted plans accurately show all existing lot coverage on the property and that the figures in the zoning table are accurate.

e. There will be no exterior lighting of the shed and surrounding area except for low garden lights.

7. In view of the applicants' agreement to the preceding conditions, the Board concluded that the requested variance relief should be granted, since the proposed shed will enhance the residential use of the applicants' property and the agreed upon conditions will more than mitigate any adverse impact.

8. As a result of the size and surrounding land use context of this lot located at the end of a cul-de-sac and existing and proposed screening and buffering, the shed will not impact adversely on any surrounding properties.

9. In the case of this specific property, and the location and characteristics of existing and proposed improvements, and the surrounding land use context, strict application of the lot coverage ratio limit would impose exceptional practical difficulties on the applicants by precluding the proposed shed, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

10. The variance 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 Variance

1. A variance is hereby granted from the 10% maximum lot coverage ratio limit in Section 225-122(H) of the Land Use and Development Ordinance to allow installation of a shed and authorize existing excess lot coverage with a cumulative new lot coverage ratio of

10.80%, as shown on plans prepared by Murphy & Hollows Associates, LLC, initially dated April 6, 2020 and last revised August 11, 2020, as required to be revised as a condition of this approval.

Variance Conditions

This variance is granted subject to the following conditions:

1. Any outstanding property taxes, application fees and technical review fees shall be paid prior to the start of any site work.
2. The applicants shall obtain any other necessary approvals.
3. This variance is based on and authorizes only the specific improvements proposed by the applicants as set forth in the testimony, application and variance plans. As required to be revised. New or amended variance approval may be required for any materially different improvements.
4. This variance is granted subject to the following conditions:
 - a. The shed will and pad will be removed prior to any future conveyance of the property.
 - b. A reasonable landscaped buffer of the shed and additional landscaping that may reduce stormwater runoff will be shown on the plans and installed, subject to prior review and approval by the Township Engineer.
 - c. A dry well serving the roof area of the shed and also related stormwater runoff as reasonably practicable will be shown on the plans and installed, subject to prior review and approval by the Township Engineer.
 - d. Confirmation will be provided from the surveyor that the submitted plans accurately show all existing lot coverage on the property and that the figures in the zoning table are accurate.
 - e. There will be no exterior lighting of the shed and surrounding area except for low garden lights.
 - f. The plans shall be revised to address any other necessary corrections as directed by the Township Engineer.
5. In accordance with Section 225-35(C)(1) of the Ordinance, this variance 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, as may be extended by the Permit Extension Act.

Vote on Resolutions

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

Against the Oral Resolution: None.

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

Against the Form of the Written Resolution: None.