

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES  
REORGANIZATION AND REGULAR MEETING  
JANUARY 20, 2022  
7:00 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Board Secretary, Ms. Taglairino called the regular meeting of the Board of Adjustment to order at 7:00 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.

**REORGANIZATION**

Ms. Taglairino noted at the Township Committee meeting held on January 3, 2022 the following appointments were made to the Board of Adjustment:

Thomas Addonizio	Regular Member	4 year term expiring, December 31, 2025
Michael Cammarata	Alternate #1	2 year term expiring December 31, 2023

The appointees signed their oaths.

**ROLL**

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

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

Board Attorney, Mr. Hall, was on the phone and Ms. Taglairino was also present.

**ELECTION OF CHAIRPERSON**

Ms. Taglairino opened the nominations for Chairperson. Mr. Newlin nominated Mr. Flanagan. Mr. Rosenbaum seconded the nomination. There were no more nominations. On a voice vote all were in favor of electing Mr. Flanagan as Chair.

**ELECTION OF THE VICE CHAIR**

Ms. Taglairino opened the nominations for Vice-Chair. Mr. Newlin nominated Mr. Rosenbaum. Mr. Flanagan seconded the nomination. There were no more nominations. On a voice vote all were in favor of electing Mr. Rosenbaum as Vice-Chair.

Ms. Taglairino turned the meeting over to Mr. Flanagan.

## **RESOLUTIONS**—Mr. Flanagan

### **Resolution BOA# 01-2022**

### **To Provide Professional Services**

Mr. Flanagan made a motion to approve Resolution BOA# 01-2022 To Provide Professional Services. It was seconded by Ms. Sovolos. On a voice vote all were in favor of approving the resolution.

### **Resolution BOA# 02-2022**

### **Meeting Dates for 2022**

Mr. Flanagan made a motion to approve Resolution BOA# 02-2022 Meeting Dates for 2022. It was seconded by Mr. Rosenbaum. On a voice vote all were in favor of approving the resolution.

### **Resolution BOA# 03-2022**

### **Do Not Exceed Limits for Professionals**

Mr. Symonds made a motion to approve Resolution BOA# 03-2022 Do Not Exceed Limits for Professionals. It was seconded by Mr. Flanagan. On a voice vote all were in favor of approving the resolution.

## **REGULAR MEETING**

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### **ADMINISTRATIVE**

Mr. Flanagan announced the following scheduling & procedural matters:

#### **Application BOA# 14-20**

Donald & Eliza Murphy  
49 Meyersville Road, B55/L5  
Status update: **(Pending completeness)**

#### **Application BOA# 16-21**

Ronald & Judith Preiss  
110 Village Road, B15/L10.03, R-1 Zone  
**(Pending Completeness)**

#### **Application BOA #18-21**

529 Waterfront Properties, LLC  
595 Van Beuren Road, B5/L8  
Appeal of Tree Officer Decision **(Pending Completeness)**

#### **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 N.J.S.A. 40:55D-70(d) for a cell tower. **(Adjourned to the February 17, 2022 meeting with no further notice).**

#### **Application BOA# 02-21**

Dr. James Wittig  
34 Kitchell Road B1/L5 R-1 Zone  
Applicant is requesting variance relief for a side setbacks, building area and lot coverage for proposed additions to dwelling, patio pool and gazebo as

perN.J.S.A.40:55D-70(c). (Adjourned to the March 17, 2022 meeting).

## **RESOLUTION**

Mr. Addonizio recused from the resolution.

Resolution BOA# 04-2022

Legal Representation by Gary Hall for 529 Waterfront Properties, LLC, Fence Appeal

Mr. Flanagan made a motion to approve Resolution BOA# 04-2022 Legal Representation by Gary Hall for 529 Waterfront Properties, LLC, Fence Appeal. It was seconded by Mr. Newlin. On a voice vote all were in favor of approving the resolution.

Mr. Addonizio rejoined the meeting.

## **MINUTES**

November 18, 2021 and December 16, 2021 Minutes

Mr. Symonds made a motion to approve the November 18, 2021 and December 16, 2021 minutes as written. It was seconded by Mr. Flanagan. On a voice vote all were in favor of approving the minutes.

## **NEW BUSINESS**

Application BOA# 17-21

Timothy and Rebecca Daniels  
10 St. Clair Road, B 26.01/L33, R-1 Zone  
Applicant is requesting variance relief for an existing non-conforming lot and for a side setback, for proposed deck as perN.J.S.A.40:55D-70(c).

Presenting:

David Scalera, Attorney  
Timothy Daniels, Owner

Mr. Daniels was sworn in for testimony.

- Mr. Scalera presented proposed plans for a deck off the rear of the principal dwelling.
- The applicant is seeking a side setback of 77.7 feet where 100 feet is required.
- Mr. Daniels explained the existing and proposed conditions of the property and project.
- There was a discussion as to the placement of the deck and the reason it is proposed to extend beyond the length of the house.
- The Board proposed reorienting the stairs to minimize the visual impact.
- It was noted that the shed on the plans will be relocated to a conforming location.

Mr. Rosenbaum made a motion to approve the application with a change to the orientation of the deck stairs. The motion was seconded by Mr. Maselli. A roll call vote went as follows:

For: Mr. Flanagan, Mr. Newlin, Mr. Rosenbaum, Mr. Maselli, Mr. Symonds, and Mr. Addonizio and Ms. Sovolos

Against: None

Application BOA# 19-21

Andreas & Wendy Kertesz

19 Wildlife Run, B15/L22.04

Applicant is requesting variance relief for a side setback, and lot coverage for proposed garage as per N.J.S.A.40:55D-70(c).

Presenting:

Nicole Magdziak, Attorney

Ryan Smith, Engineer

Dan Enson, Architect

Mr. Smith and Mr. Enson were sworn in for testimony.

- Ms. Magdziak presented an application for a proposed detached garage.
- The garage is outside the building envelope with a proposed side setback of 65.3 feet.
- The applicant is also seeking a variance for lot coverage of 10.7% where 10.8 exists and 10% is allowed in the zone. The applicant plans on reducing the lot coverage.
- Ms. Magdziak noted an existing driveway easement encroachment of 900 sq.ft. on the property.
- Mr. Smith explained the existing and proposed conditions of the property.
- Mr. Smith noted that the front yard gravel court will be removed.
- Ms. Magdziak presented Exhibit photos of the yard area where the garage is proposed.
- Mr. Flanagan initiated a discussion about the existing garage on the property and the components of the proposed garage which include an oversized bay, additional storage and a second floor studio with a bathroom.
- Mr. Enson explained the elevations and proposed floor plan of the project.
- Mr. Newlin requested to see elevations of the existing home.
- The Board expressed concerns about the size and encroachment and lot coverage of the project and suggested exploring a solution to minimize the impact of the requested relief.

The applicant requested to carry the application until the February 17, 2022 meeting.

**OTHER BUSINESS**

None

**ADJOURNMENT**

Mr. Flanagan adjourned the meeting at 8:38

*Lori Taglairino*

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Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

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**RESOLUTION BOA #01-2022  
TOWNSHIP OF HARDING BOARD OF ADJUSTMENT  
JANUARY 20, 2022**

**APPOINTMENT OF PROFESSIONALS TO SERVE THE BOARD OF ADJUSTMENT FOR 2021**

**WHEREAS**, the Board of Adjustment of the Township of Harding has need for professional legal, planning and engineering consultant services; and

**WHEREAS**, funds are available for this purpose; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the retention of certain professional services without competitive bidding must be publicly advertised:

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township of Harding in the County of Morris that the following appointments be made for the year 2022:

1. Gary Hall, Esq., of the firm of McCarter and English, Attorney as Counsel;
  2. Paul Fox, of the firm of Apgar Associates, as Engineering Consultant; and
  3. McKinley Mertz of the firm Heyer Gruel and Associates, as Planner
- a) Said appointments are made without competitive bidding as professional services under provisions of the Local Public Contracts Law because lawyers, engineers and professional planners are recognized professionals licensed and regulated by law.
- b) A copy of this resolution shall be published in the Observer-Tribune as required by law.

I hereby certify this is a true copy of a Resolution approved by the Board of Adjustment of the Township of Harding at a meeting held on January 20, 2022.

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**HARDING TOWNSHIP BOARD OF ADJUSTMENT  
RESOLUTION BOA 02-2022  
JANUARY 20, 2022**

**REGULAR MEETING SCHEDULE FOR FEBRUARY 2022 THROUGH JANUARY 2023**

**WHEREAS**, the "Open Public Meeting Act" R.S. 10:4-6 and following, requires that public bodies provide adequate notice of meetings; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township of Harding, in the County of Morris, New Jersey, as follows:

1. From February 2022 through January 2023, meetings will be held by the Board of Adjustment to discuss or act upon public business at 7:00 p.m., prevailing time, on the following dates:

FEBRUARY 17, 2022  
MARCH 17, 2022  
APRIL 21, 2022  
May 19, 2022  
JUNE 16, 2022  
JULY 21, 2022  
AUGUST 18, 2022  
SEPTEMBER 15, 2022  
OCTOBER 20, 2022  
NOVEMBER 17, 2022  
DECEMBER 15, 2022  
JANUARY 19, 2023

2. Certified copies of this Resolution shall be (a) mailed to the OBSERVER-TRIBUNE, (b) mailed to the DAILY RECORD, (c) filed with the Clerk of the Township of Harding, (d) posted on Township webpage and the bulletin board in the main hallway of the Township Hall and, (e) mailed to any person requesting notices of meeting of the Board of Adjustment pursuant to R.S. 10:4-19 who has paid \$15.00 for agendas and \$25.00 for agendas and minutes, which sum is hereby fixed to cover the costs of providing notice of all meetings of this body during 2022 and January 19, 2023. The foregoing shall be accomplished within seven (7) days of the adoption of this Resolution.

I hereby certify this is a true copy of a Resolution approved by the Board of Adjustment of the Township of Harding at a meeting held on January 20, 2022.

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**RESOLUTION BOA 03-2022  
HARDING TOWNSHIP BOARD OF ADJUSTMENT OF THE TOWNSHIP  
JANUARY 20, 2022  
RESOLUTION TO PROVIDE PROFESSIONAL SERVICES DURING 2022**

**WHEREAS**, the Board of Adjustment of the Township of Harding previously appointed professionals to provide legal services and engineering services via Resolution BOA 01-2022; and

**WHEREAS**, the Board of Adjustment has a need to award contract for the above-mentioned professionals; and

**WHEREAS**, Resolution BOA-03-2022 of the Board of Adjustment of the Township of Harding is providing for the award of contract to:

1. Gary Hall, Esq. of the firm McCarter and English, in an amount not to exceed \$13,000.00
2. Paul Fox, of the firm of Apgar Associates, as Engineering Consultant, in an amount not to exceed \$4,000.00 and
3. Mc Kinley Mertz of the firm Heyer Gruel and Associates, as Planner, in an amount not to exceed \$3,000.00 and

**NOW THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township Of Harding in County of Morris that the following appointments be made for the year 2022:

1. Gary Hall, Esq. of the firm McCarter and English Associates and Paul Fox, of the firm of Apgar Associates, as Engineering Consultant and Mc Kinley Mertz of the firm Heyer Gruel and Associates, as Planner
2. Said appointments are made without competitive bidding as professional services under provisions of the Local Public Contracts Law because lawyers, planners and engineers are recognized professionals licensed and regulated by law;

3. A copy of this resolution shall be published in the Observer-Tribune as required by law.
- Resolution adopted January 20, 2022 by the Harding Township Board of Adjustment.

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**TOWNSHIP OF HARDING BOARD OF ADJUSTMENT**

**RESOLUTION BOA# 04-2022 CONSENTING TO LEGAL REPRESENTATION OF THE HARDING TOWNSHIP  
BOARD OF ADJUSTMENT**

**BY GARY HALL, ESQ. IN THE MATTER KNOWN AS 529 WATERFRONT PROPERTIES LP VS MICHAEL  
GARGIULO AND PATRICIA GARGIULO AND THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF  
HARDING, DOCKET NO. MRS-L-2487-21PW**

**JANUARY 20, 2022**

**WHEREAS**, the Township of Harding Board of Adjustment requires the services of legal representation in the matter known 529 Waterfront Properties LP vs Michael Gargiulo and Patricia Gargiulo and the Board of Adjustment of the Township of Harding, Docket No. MRS-L-2487-21PW (hereinafter the "Litigation"); and

**WHEREAS**, Gary Hall, Esq. is a licensed New Jersey Attorney, is recognized as capable and available to undertake such work; and

**WHEREAS**, Gary Hall, Esq. was previously appointed by the Board of Adjustment to represent it for the 2022 calendar year; and

**WHEREAS**, the Board of Adjustment negotiated a contract with Gary Hall, Esq. for the purposes set forth herein wishes toward a contract to Gary Hall represent it in the Litigation for an amount not to exceed \$20,000.00; and

**WHEREAS**, The Chief Financial Officer for the Township of Harding has certified that these funds are available. These funds will be paid out of the Current Fund – Board of Adjustments account number 01- 2022-1185-0185-2-00035. One quarter of these funds are currently certified. Remainder of funds is certified pending final 2022 budget approval.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Township of Harding, County of Morris, State of New Jersey as follows:

1. The Township of Harding Board of Adjustment hereby consents to the appointment of Gary Hall, Esq. for representation of the Board of Adjustment in the matter known as 529 Waterfront Properties LP vs Michael Gargiulo and Patricia Gargiulo and the Board of Adjustment of the Township of Harding, Docket No. MRS-L- 2487-21PW
2. The contract for professional services is authorized to be entered into with Gary Hall, Esq. for the purposes set forth herein in an amount not to exceed \$20,000.00.
3. The Board Chairman and Board Secretary are hereby authorized to execute said contract on behalf of the Board of Adjustment.