

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES  
REGULAR MEETING  
MARCH 16, 2023  
7:30 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

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The Board Chair, Mr. Flanagan called the 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.

**PLEDGE OF ALLEGIANCE**

**REGULAR MEETING**

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**ROLL**

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

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

Board Attorney, Mr. Hall, Board Engineer Mr. Fox, Board Planner, Ms. Mertz, and Ms. Taglairino were also present.

Mr. Hall swore in Ms. Mertz for the 2023 year.

**ADMINISTRATIVE**

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RESOLUTION BOA#07-2023      Do Not Exceed for Steve Mlenak for Verizon Settlement

Mr. Flanagan made a motion to approve Resolution BOA#07-2023 Do Not Exceed for Steve Mlenak for Verizon Settlement. It was seconded by Mr. Symonds. On a voice vote all were in favor of approving the resolution.

RESOLUTION BOA#08-2023      Do Not Exceed for Gary Hall for 529 Waterfront, LLC, Tree Litigation

Mr. Flanagan made a motion to approve. Resolution BOA#08-2023Do Not Exceed for Gary Hall. It was seconded by Mr. Symonds. On a voice vote all were in favor of approving the resolution.

Mr. Addonizio recused.

RESOLUTION BOA# 10-22      Richard Heap & Suzanne Pietrowski

Mr. Flanagan made a motion to approve the plans as presented. The motion was seconded by Mr. Newlin. A roll call vote went as follows:

For: Symonds, and Flanagan.

## MINUTES

Mr. Flanagan made a motion to approve the February 16, 2023 minutes as written. It was seconded by Mr. Symonds. On a voice vote all were in favor of approving the minutes.

## **OLD BUSINESS**

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### Application BOA# 16-21

Ronald & Judith Preiss

110 Village Road, B15/L10.03, R-1 Zone

Applicant is requesting variance relief for a front setback of the principal dwelling, 7 setbacks for accessory structures, 2 variances for accessory structures in front of a principal dwelling, building coverage, and lot coverage as per N.J.S.A.40:55D-70(c). The applicant is also seeking a variance as per the Harding Township Code 225-116.Q(2) for driveway gates and pillars.

Presenting:

David Brady, Attorney

Judith Preiss, Owner

Peter Dorne, Architect

Michael Tobia, Planner

Catherine Mueller, Engineer

Ms. Preiss, Mr. Dorne and Ms. Mueller were sworn in for testimony.

- Mr. Brady presented revised plans with reduced coverage from 14% to 10.86% lot.
- Ms. Mueller noted changes in the grading and drywells for the project.
- Ms. Mueller addressed the accessibility of the driveway between the two garages.
- Mr. Dorne opined on the appropriateness of the siting of the detached garage on the property.
- Mr. Brady presented Exhibit A-2, a letter from the Fire Chief addressing the existing pillars.
- Mr. Brady presented Exhibit A-3, a photo of the detached garage and pillars.
- Mr. Tobia gave a review of the square footage and structures to be removed.
- Mr. Tobia noted that the applicant would like to keep the fireplace and walkways to the fireplace.
- Mr. Tobia itemized the remaining variance requests.
- Ms. Preiss explained the ingress/egress of the driveway and garage.

Mr. Flanagan made a motion to approve the plan as submitted. It was seconded by Mr. Boyan.

A roll call vote went as follows:

For: Flanagan, Boyan, Addonizio, Sovolos and Symonds

Against: None

## NEW BUSINESS

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Application BOA# 01-23

Paul Coates

50 Kitchell Road, B1/L8

Applicant is seeking a variance for height as per N.J.S.A.40:55D-70(d6) and a variance for lot coverage per N.J.S.A.40:55D-70(c).

Presenting:

Nicole Magdziak, Attorney

John Ferrante, Engineer

Jon Van Lenten, Architect.

Mr. Van Lenten and Mr. Ferrante were sworn in for testimony.

- Ms. Magdziak presented plans for a 2-story garage addition on a contributing historic home.
- Ms. Magdziak noted there are four variances being requested with this application.
- Ms. Magdziak noted that the tennis court situated in front of the property was likely there since 1930.
- Ms. Magdziak noted that the applicant will reduce the driveway coverage by 1700 sq. ft. to offset the additional coverage.
- Mr. Ferrante presented Exhibit A-1, and aerial of the existing conditions on the property.
- Mr. Ferrante presented plans outlining the variances.
- There was a discussion on calculating the grade.
- The Board noted that the grass pavers are still coverage.
- Mr. Ferrante presented Exhibit A-2, a revised lot coverage sheet noting the coverage areas to be removed.
- Exhibit A-3 was an aerial from 1934 showed the outline of a tennis court on the property.
- Exhibit A-4 shows the tennis court as it exists today.
- Ms. Mertz addressed the D6 height variance.
- Mr. Van Lenten noted that the house was built in 1908 and there were no cars at that time.
- Mr. Van Lenten noted that there is no garage presently.

The Board set a site inspection for April 1, 2023 at 9:00 am.

The Board took a 5 minute break at 9:28. After the break the roll was taken. The following members were present:

Mr. Addonizio, Ms. Sovolos, Mr. Boyan, Mr. Symonds, Mr. Flanagan.

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Application BOA #04-23

Peter McCrae

15 Fox Hunt Road, B51.01/L16

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

Presenting:

Peter McCrae, Owner

Steven Hockstein, Engineer

Mr. Hockstein and Mr. McCrae were sworn in for testimony.

- Mr. McCrae noted that he is proposing to re-build an existing deck and add a screened in porch area to the deck.
- Mr. McCrae is seeking a side setback.
- It was noted that variance would be required for an existing non-conforming structure and for the existing pool and pergola.
- Mr. McCrae presented Exhibit A-1, photos of the existing conditions of the lot.

A motion was made by Mr. Flanagan to approve the application along with the variances for the other existing structures. The motion was seconded by Mr. Boyan. A roll call vote went as follows:

For: Flanagan, Boyan, Addonizio, Sovolos and Symonds

Against: None

### **OTHER BUSINESS**

### **ADJOURNMENT**

Mr. Flanagan adjourned the meeting at 10:03.

*Lori Taglairino*

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Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

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### **HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION**

**Richard Heap & Suzanne Piotrowski - Application No. BOA 010-22  
537 Spring Valley Road - Block 9, Lot 17**

**Adopted March 16, 2023**

WHEREAS, Richard Heap and Suzanne Piotrowski applied to the Harding Township Board of Adjustment for variances from Section 225-122(F) of the Land Use and Development Ordinance, which requires 100' minimum setbacks, and from Section 225-115(B), which prohibits the enlargement of certain nonconforming structures, in order to permit construction of a 2 story residence addition, related improvements to their nonconforming residence, and modification of walkways on a lot located in a R-1 Zone at 537 Spring Valley Road and designated on the Township Tax Map as Block 9, Lot 17; and

WHEREAS, the Board of Adjustment conducted an initial public hearing on the application at a meeting on January 19, 2023 at the Harding Township Municipal Building, for which public notice and notice by applicants were given as required by law; and

WHEREAS, the Board of Adjustment conducted a public site inspection of the premises at a special meeting on January 28, 2023; and

WHEREAS, the applicants revised their proposal to reduce the size of the proposed addition in response to comments and discussion at the initial hearing and site inspection; and

WHEREAS, the Board of Adjustment conducted a public hearing on the revised proposal at a meeting on February 16, 2023, for which public notice was given as required by law; and

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

WHEREAS, at the meeting on February 16, 2023, the Board of Adjustment adopted an oral resolution approving the revised 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 March 2023, that the oral approval of the revised variance application of Richard Heap and Suzanne Piotrowski is hereby memorialized as follows:

**Findings of Fact and Statement of Reasons**

1. The applicants' property is located in a R-1 Zone at 537 Spring Valley Road. The property has a lot size of 3.2 acres that exceeds the 3 acre minimum.

2. The property is improved with a single-family residence that is nonconforming due to the minimum front setback (25' vs. 100' minimum) and minimum left side setback (79.2' vs. 100' minimum), as shown on variance plans prepared by E2 Project Management LLC, initially dated September 12, 2022.

3. The property also contains a shed and a detached garage with 2 separate entrance levels that are accessed by separate driveways.

4. The applicants proposed to renovate and enlarge their residence by construction of a 2 story addition to the east (right) side and rear that would replace in part an existing one story wing and would improve and expand the basement. The expanded first floor would provide an additional bedroom, bathroom, mud room/laundry room and children's crafts and gaming room. The expanded second floor would provide a new sitting room, bedroom with attached bathroom and walk-in closet. A covered rear porch would be constructed along with a slate walkway to the rear, and driveway improvements would be modified. The proposed improvements as initially proposed were shown on the variance plans and on architectural plans prepared by John B. Van Lenten, AIA, initially dated October 31, 2021 and last revised February 1, 2023.

5. The proposed addition would have a minimum front setback from the front lot line of 37.6', which would be greater than the nonconforming minimum front setback for the main portion of the residence of 25' and would maintain the nonconforming front setback for the current right side (east) wing of the residence, requiring a variance from the 100' minimum in Section 225-122(F) of the Ordinance.

6. The proposed addition to the residence requires a variance from Section 225-115(B) of the Ordinance to allow enlargement of a nonconforming structure.

7. The Township Historic Preservation Commission issued a memorandum dated June 2, 2022 that indicated that the property is a contributing property in the Silver Lake Historic District and stated that there had been discussion of actions to maintain the historic character of the residence.

8. The Township Department of Health issued a memorandum dated October 26, 2022 that indicated the absence of any objections to the proposal, subject to submission of a complete prior approval application before issuance of a building permit.

9. Testimony in support of the application was provided by the applicants and by their engineer Harrison Barany and their architect John Van Lenten. They testified that the residence addition and renovations were intended to provide expanded and modernized interior living space and that the proposed improvements would result in an enhanced exterior appearance.

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

11. There was a discussion of the proposed size of the expanded residence in relation to the deficient front setback, and questions were raised as to the proposed use and necessity for the additional interior living space. In response, the applicants agreed to reconfigure and reduce the proposed addition, as set forth on revised plans presented at the second hearing bearing revision dates of February 2, 2023 (variance plans) and February 1, 2023 (architectural plans).

12. There also was a discussion of the 2 driveway connections to the detached garage. In response, the applicants indicated that the detached garage has 2 separate entrance levels that are accessed by the separate driveways and that it would not be practical to combine the driveways that are not prominent features on the property.

13. The necessity for the requested variance from the front setback requirement and variance relief to permit enlargement of the nonconforming residence is attributable to the existing nonconforming location and orientation of the residence on the lot. The front setback for the addition will be greater than the current nonconforming front setback for the main section of the residence that will not be changed.

14. The location of the addition to the side and rear will minimize visibility from the street.

15. The enlarged residence will continue to comply with the building area ratio limit, and the property will continue to comply with the lot coverage ratio limit.

16. The addition and related improvements will enhance the historic appearance and functional utility of the applicants' residence.

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

18. In the case of this specific property, and the location, orientation, nonconforming setbacks, and characteristics of existing and proposed improvements, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed addition, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

19. 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 side addition with a minimum front setback of 37.6', while maintaining the current nonconforming front setback 25' for the main portion of the residence, as shown on revised architectural plans prepared by John Van Lenten, last dated February 1, 2023, and on revised variance plans prepared by E2 Project Management, last dated February 2, 2023.

2. A variance is hereby granted from the restriction against enlargement of certain nonconforming structures in Section 225-115(B) of the Ordinance to allow enlargement of the applicants' nonconforming residence, as shown on the revised variance plans and architectural plans.

**Variance Conditions**

These variances are granted subject to the following conditions:

1. The applicants shall obtain Health Department approval, 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 revised 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: Flanagan, Newlin, Maselli, Cammarata & Symonds.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Flanagan & Symonds.

Against the Form of the Written Resolution: None.

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**TOWNSHIP OF HARDING BOARD OF ADJUSTMENT  
RESOLUTION BOA # 07-2023**

**BOA# 07-2023 DO NOT EXCEED FOR LEGAL REPRESENTATION OF THE HARDING TOWNSHIP BOARD OF ADJUSTMENT BY STEVEN MLENAK, ESQ. OF THE FIRM GREENBAUM, ROWE, SMITH & DAVIS, LLP IN THE MATTER NEW YORK SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS V. THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF HARDING, NEW JERSEY**

**WHEREAS**, the Board of Adjustment of the Township of Harding has a need to appoint Steven Mlenak of the firm Greenbaum, Rowe, Smith & Davis, LLP to provided legal services in the matter New York SMSA Limited Partnership d/b/a Verizon Wireless v. The Harding Board of Adjustment o The Township of Harding, New Jersey for Docket no. 2:22-cv-04531; and

**WHEREAS**, the Board of Adjustment has a need to award contract for the Steven Mlenak of the firm Greenbaum, Rowe, Smith & Davis, LLP for the 2023 year; and

**WHEREAS**, the Board of Adjustment recommends that the total contract amount be \$25,000.00; and

**WHEREAS**, the Chief Financial Officer has certified that the funds will be available on March 14, 2023 and shall be encumbered through account # 01- 2023-1185- 0185-2-00035 in an amount not to exceed \$25,000.00.

**BE IT RESOLVED**, that the Board of Adjustment be and are hereby authorized to execute an appropriate Contract on behalf of the Board to reflect contract amount authorized by this resolution; and

**BE IT FURTHER RESOLVED**, that notice of this contract will be published as required by law within ten days of the passage of this Resolution.

**DATED:** March 16, 2023

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**RESOLUTION BOA# 08-2023 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 MRS-L-14-23PW**

**MARCH 16, 2023**

**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-14-23PW (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 2023 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 01-2023-1155-0155- 2-00099 One quarter of these funds are currently certified. Remainder of funds is certified pending final 2023 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 MRS-L-14-23PW.
  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.
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