

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
OCTOBER 19, 2023
7:30 PM**

CALL TO ORDER AND STATEMENT OF COMPLIANCE

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

ROLL

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

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

Board Attorney, Mr. Hall, and Ms. Taglairino were also present.

ADMINISTRATIVE

MINUTES

September 21, 2023

Mr. Flanagan made a motion to approve September 21, 2023 minutes. The motion was seconded by Mr. Symonds. On a voice vote all eligible members approved the minutes.

EXTENSIONS

BOA #02-21 Wittig

Mr. Rosenbaum made a motion to grant a one year extension. The motion was seconded by Mr. Flanagan. On a voice vote all eligible members approved granting the extension.

RESOLUTION

BOA #08-23 Steingraber

Mr. Flanagan made a motion to adopt resolution BOA #08-23 Steingraber. The motion was seconded by Mr. Symonds. A roll call vote went as follows:

For: Flanagan, Symonds, and Boyan.
Against: None

LITIGATION FUND REQUEST

Mr. Flanagan made a motion to approve a request to submit for an increase in the 2023 litigation budget. The motion was seconded by Mr. Rosenbaum. On a voice vote all eligible members approved the request. A letter will be sent to the Administrator regarding this matter.

OLD BUSINESS

Presenting:

Tim Klesse, Architect

Joseph Ferrante, Engineer

Tom Esposito, Owner

Peter Houghton, Landscaper

Alexander Dougherty, Planner

Messrs.. Ferrante, Houghton and Dougherty were sworn in.

- Mr. Klesse presented revised plans for the applicant. He noted that the revision included re locating the pickleball court to a compliant location and a reduction in the lot coverage to 9.98%. He also noted the reduction in the pool patio aided in the reduction of lot coverage.
- Mr. Ferrante noted the non-conforming width of the property.
- Mr. Ferrante stated the applicant will substantially screen the pickleball court and side yard.
- Mr. Houghton offered landscaping solutions for the pickleball court, pool and porte cochère
- Mr. Ferrante pointed out that the remaining variances for the patio, pool equipment, porte cochère and mudroom.
- The Board expressed concerns over the variance for the porte cochère. The Board discussed choosing between the covered parking and the mudroom for a variance.
- Mr. Dougherty presented Exhibit A-1, a packet of photographs and maps detailing the property and the surrounding properties.
- The Board discussed ways to minimize the impact on the land.

Mr. Crus from 5 Military Hill Drive voiced his concern over the potential noise from the proposed pickleball court. The Board reiterated that the revised plans show the relocation of the pickleball court to a compliant spot, thus no longer requiring a variance.

After the revisions, the remaining variances are for the following:

- A minimum east side setback for the pool patio of 97'.
- A minimum east side setback for the pool equipment of 97'.
- A minimum west side setback for the mudroom, 2-story addition of 90.4'.
- A minimum rear/side setback for a portion/corner of the mudroom/ garage addition of 98.6'.

A motion was made by Mr. Flanagan to approve the application with the conditions and revisions set forth on the record. The motion was seconded by Mr. Rosenbaum. A roll call vote went as follows:

For: Flanagan, Rosenbaum, Maselli, Sovolos, Symonds and Boyan.

Against: None.

Lori Taglairino

Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

HARDING TOWNSHIP BOARD OF ADJUSTMENT

RESOLUTION

Jonathan Steingraber & Michelle Pais - Application No. BOA 8-23

146 Village Road - Block 14, Lot 4.07

Adopted October 19, 2023

WHEREAS, Jonathan Steingraber and Michelle Pais 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%, in order to permit construction of an in-ground swimming pool and related patio improvements to the rear of their residence located in a R-1 Zone at 146 Village Road and designated on the Township Tax Map as Block 14, Lot 4.07; and

WHEREAS, the Board of Adjustment conducted an initial public hearing on the application at a meeting on August 17, 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 publicly noticed site inspection of the property on September 9, 2023; and

WHEREAS, the Board of Adjustment conducted a continued public hearing on the application at a meeting on September 21, 2023 at the Harding Township Municipal Building, for which public notice was given as required by law; and

WHEREAS, in response to concerns as to the magnitude of the existing and proposed lot coverage ratios, the applicants presented a revised proposal at the continued public hearing on September 21, 2023 that reduced the proposed ratio; and

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

WHEREAS, at the meeting on September 21, 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 19th day of October 2023, that the oral approval of the revised variance application of Jonathan Steingraber and Michelle Pais is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The applicants' property is located in a R-1 Zone at 146 Village Road. It has a lot size of 3.486 acres.

2. The property is improved with a single-family residence with a semi-circle walkway and retaining walls to the rear. The property slopes upward from the road, with an elevation change of more than 30 feet to the residence. The property has a lot coverage ratio of 13.8% that is a legally protected nonconforming condition due to construction of the residential improvements prior to adoption of the current 10% maximum.

3. The applicants proposed to construct an in-ground swimming pool and related patio improvements within the semi-circle walkway area in the rear yard, as shown on a Pool Location & Grading Plan prepared by Egarian Associates, Inc., dated January 25, 2023 and last revised July 17, 2023. An existing rear patio would be modified to accommodate the proposed improvement.

4. As initially proposed, the pool and related improvements would increase the nonconforming lot coverage ratio from 13.8% to 14.7%, requiring a variance from the 10% maximum in Section 225-122(H). The subsequent revised proposal reduced the proposed new ratio to 14.2%.

5. The applicants were represented in proceedings before the Board of Adjustment by Nicole Magdziak, Esq. at the initial meeting and site inspection and by Luke Pontier, Esq. at the second meeting. Both attorneys are affiliated with the law firm of Day Pitney, LLP.

6. Testimony in support of the application was provided by engineer Jeff Egarian, P.E., who explained the proposal. He testified that the significant elevation change in the front yard necessitated a curving driveway, rather than a straight alignment, and a significantly greater front setback for the residence. These circumstances resulted in a longer driveway with a lot coverage ratio of 11.3% for the driveway and the residence footprint.

7. In response to concerns raised at the initial hearing, the applicants considered potential offsetting lot coverage removal and then modified their proposal to eliminate a generator pad and related wall in the front yard and the semicircular walk and slate patio extension in the rear yard. Removal of this lot coverage would reduce the proposed new ratio from 14.7% to 14.2%. Engineer Egarian testified that additional coverage removal to reduce the paved area in front of the garage and narrowing the 14-foot wide driveway would not be appropriate due to impairment of the ability to turn around vehicles in order to avoid having to back down the long, curving driveway.

8. The Township Department of Health commented on the application in a memorandum dated July 14, 2023, which stated that the proposal appeared to be consistent with applicable requirements.

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

10. The nonconforming lot coverage ratio is attributable to the unique topography of the property that resulted in the need for a long, curving driveway and also the fact that all of the existing residential improvements were constructed prior to adoption of the 10% lot coverage ratio limit in 2001. Approval and implementation of this project as revised will result in only a modest increase in the nonconforming lot coverage ratio. It would not be practical or appropriate to reduce the proposed ratio by additional offsetting lot coverage removal.

11. Although the proposed new lot coverage ratio will still be significantly greater than the 10% limit, there is no indication of any existing stormwater management problems. Nevertheless, the proposal includes a dry well.

12. The proposed swimming pool improvements represent a customary accessory use for this type of residential property.

13. The applicants agreed to a condition that there would be no outdoor lighting of the pool area other than in-pool lights and low garden lights.

14. Substantial wooded areas to the rear and sides of the property provide natural screening between the proposed pool location and adjacent residential properties. Visibility of the proposed swimming pool would also be minimized by the topography and pool location.

15. Under the specific circumstances of this property and proposal, granting variance relief from the lot coverage ratio

limit will not adversely impact adjacent properties.

16. In the case of this specific property, including its unusual topography and the specific location and characteristics of the existing and proposed improvements, strict application of the lot coverage ratio requirement would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed swimming pool and related improvements.

17. 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 Variance

1. A variance is hereby granted from the 10% maximum lot coverage ratio requirement in Section 225-122(H) of the Land Use and Development Ordinance to allow construction of a swimming pool and patio improvements that will result in a maximum new lot coverage ratio of 14.2%, as shown on a Pool Location & Grading Plan prepared by Egarian Associates, Inc., dated January 25 2023, last revised July 17, 2023, and as required to be further revised as a condition of this approval.

Variance Conditions

This variance is granted subject to the following conditions:

1. Any outstanding technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.
2. The applicants shall obtain Board of Health approval, 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 revised variance plan, as required to be further revised consistent with the testimony. New or amended variance approval shall be required for any different or additional improvements.
4. These variances are granted subject to the express conditions that:
 - a. Prior to issuance of a certificate of occupancy for the swimming pool, the applicants shall remove lot coverage associated with the concrete generator pad and wall in the front yard and the walkway in the rear yard as designated on the revised
 - b. There shall be no lighting of the swimming pool area except for low garden lights and in-pool lights.
 - c. Any pool fencing required by the applicable building code shall be shown on the revised plan.
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.

Vote on Resolutions

For the Oral Resolution: Symonds, Newlin, Addonizio, Flanagan & Boyan.

Against the Oral Resolution: None.

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

Against the Form of the Written Resolution: None.