

FLORENCE TOWNSHIP PLANNING BOARD

RESOLUTION NO. Z.B.-2019-05

Application ZB#2019-03

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
BRYAN POCINO & MARIA MINELLI
BLOCK 171.01, LOT 5.04
AGR- AGRICULTURAL ZONING DISTRICT
BULK VARIANCE
AREA OF ACCESSORY STRUCTURE
SIDE YARD SETBACK
APPROVAL**

Decided: May 6, 2019
Resolution Memorialized: June 6, 2019

WHEREAS, Bryan Pocino and Maria Minelli have made application to the Florence Township Zoning Board of Adjustment seeking variance approval to allow construction of a 30' x 40' x 18' tall residential accessory building at a property located at 2027 Old York Road and known on the Official Tax Maps of the Township of Florence as Lot 5.04 of Block 171.01;

WHEREAS, the applicants are the owners of the subject property;

WHEREAS, upon a finding that the applicants had provided proper mailed and published notices of hearing and that jurisdiction was proper in the Board, it opened a hearing on the application at its May 6, 2019 regular meeting;

WHEREAS, the applicants, appeared, were sworn, and offered their testimony in support of the application;

WHEREAS, the Board granted certain submission waivers based upon the recommendations of the Board Engineer, and found the variance application sufficiently complete to be heard;

WHEREAS, the Florence Township Zoning Board of Adjustment has made the following findings of fact and conclusions of law:

Findings of fact:

1. The applicants are the owners of the subject property, and therefore have standing to bring this matter before the Board.
2. The applicants have provided proper mailed and published notices of hearing, and jurisdiction is proper in the Board.
3. Application has been made for bulk variance and use variance approvals to allow construction of a 30' x 40' x 18' tall residential accessory building at a property located at 2027 Old York Road and known on the Official Tax Maps of the Township of Florence as Lot 5.04 of Block 171.01.
4. The applicant has submitted the following documents in support of its application:
 - a. A completed Township of Florence Land Development Application;
 - b. A completed Township of Florence Variance Application Checklist of Submission Requirements;
 - c. Proof that no taxes were due on the subject properties at the time of the application;
 - d. Survey and Plan of Property prepared by Morgan Engineering & Surveying, dated 04/03/18;
 - e. Building Plans prepared by Graber Buildings dated 1/18/19;
 - f. Truss plans prepared by Mi-Tek dated 1/22/19;
 - g. Response letter from the applicants dated April 30, 2019;
 - h. Zoning Officer's Certification;
 - i. An executed Escrow Agreement;
 - j. Proper application and escrow fees as required by ordinance;
5. The Board's Planner, Barbara Fegley, AICP, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted a review letter commenting upon the application dated April 25, 2019 which is hereby incorporated into the record.

6. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted review letter dated April 25, 2019 commenting upon the application which is hereby incorporated into the record.
7. Ordinance §91-162 limits the size of accessory buildings to 600 sq. ft. in area, but the proposed building is 1,200 sq. ft.
8. The minimum required side yard setback for accessory buildings in the AGR Zone District is 50 ft., but the new building is proposed to be only 17 ft. from the property side line.
9. The dwelling on the subject property is 1,272 in area, and the subject property is approximately 1 acre in area.
10. The applicants testified that there are several similar buildings on other nearby residential lots, that they propose to store and work on their own vehicles and boats (that are now parked outside in the yard area), that they propose to bring electricity into the new building (but not water & waste water services), that they plan to use exterior finishes on the new building that are similar and complementary to those on their home, and that they do plan to extend their driveway to the new building. They do not propose to do auto painting or other similar especially noisy or odorous types of work on their vehicles.
11. The applicants further testified that the location was chosen to avoid the septic system and to best align with the existing driveway, and that the proposed building location will actually help to screen the swimming pool on the adjoining property from theirs.
12. The Board Engineer analyzed the existing and proposed lot coverage and opined to the Board that even with the new building and extended driveway area, development on the property would not exceed lot coverage limitations for the AGR Zone District.
13. The Board accepts as credible and probative the testimony of the applicants that the proposed development will be consistent with the general pattern and intensity of development of other properties in the surrounding neighborhood where there are other buildings of similar size to the proposed new building and

that the proposed building location is necessitated by the existing lawful development on the property.

14. Public comment was offered on the application by Fritz Wainwright of 1011 Cedar Lane, who spoke in favor of the application.

Conclusions of Law:

The initial issue posed by this application is whether the applicants' request to construct a residential accessory building that is 1,200 sq. ft. in area when the applicable ordinances restrict the maximum area of such structures to a maximum of only 600 sq. ft. triggers a use variance for a second principal structure at the subject property, or whether since the use of the proposed building is for hobbies such as amateur non-commercial auto repair and for the storage of personal vehicles and boats, the requested variance relief is merely a bulk variance for an over-large residential accessory structure. The Board acknowledges and respects the Zoning Officer's concern about the scale of the proposed building, especially in light of the 600 sq. ft. limitation for such structures set forth in the ordinances. With regard to this particular proposal in the AGR Zone where there are other similarly sized structures on residential lots, and where the uses proposed are so clearly accessory to the residential use of the property and dwelling, the Board concludes that this is a residential accessory structure, and that only bulk variance relief is required.

The Board finds that the proposed bulk variances for accessory building area and side yard setback can be granted pursuant to NJSA 40:55D-70(c)(2), because the proposed new structure in the proposed location provides a better zoning alternative (through providing efficient use of land and an improved visual environment) than strict adherence to applicable standards, and the benefits to the general welfare of the proposed development substantially outweigh any detriment to the public good or impairment of the zone plan which would result from this deviation from the ordinance standard. Therefore, the Board finds it appropriate, pursuant to NJSA 40:55D-70(c)(2), and subject to appropriate conditions, to grant the requested bulk variances.

In addition to the conclusions set forth above, the applicant has fulfilled the procedural requirements for the proposed development. Therefore, the requested bulk variances should be granted.

NOW, THEREFORE, BE IT RESOLVED by the Florence Township Planning Board in the County of Burlington and State of New Jersey that the application of Bryan Pocino and Maria Minelli seeking bulk variance approvals to allow construction of a 30' x 40' x 18' tall residential accessory building at a property located at 2027 Old York Road and known on the Official Tax Maps of the Township of Florence as Lot 5.04 of Block 171.01, be and hereby is, **GRANTED**, subject to the following conditions:

1. The Board has relied upon the testimony of the witnesses and factual findings discussed in the body of this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth at length herein.
2. The exterior colors of the proposed new residential accessory building shall be consistent with the finishes on the dwelling at the subject property.
3. There shall be no business or commercial use of the proposed new building and it shall not be rented or used for storage by any non-owner of the subject property.
4. Electricity may be provided in the new building, but not domestic water and wastewater services.
5. No additional stormwater shall be directed onto adjoining properties as a result of the new development.
6. All taxes and escrow fees for professional review must be paid current and in full.
7. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: Burlington County Planning Board. Copies of all applications, permits and certifications related to such approvals shall be filed with this Board.
8. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall

have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.

9. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required and shall provide the Board with copies of all reports and approvals for same, including copies of any and all applications filed.
10. Perfection of this approval shall be by filing of appropriate deeds. The applicant shall submit the legal descriptions to the Board Engineer, and the deeds to the Board Solicitor for their review and approval.
11. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date hereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not perfect this approval within one year days of the date hereof (or such extended date as may be provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

MOTION TO APPROVE BULK VARIANCES:

Moved by : Mr. Patel
Seconded by : Mr. Cartier
In Favor : Mr. Patel, Mr. Cartier, Mr. Lutz, Mr. Drangula, Mr. Sovak,
Mr. Puccio, Chairman Zekas
Opposed : None
Abstained : None
Recused : None
Absent : Mr. Buddenbaum, Ms. Mattis

MOTION TO ADOPT RESOLUTION:

Moved by : Mr. Lutz
Seconded by : Mr. Patel
In Favor : Mr. Lutz, Mr. Patel, Mr. Cartier, Mr. Drangula, Mr. Sovak,
Mr. Puccio, Chairman Zekas
Opposed : None
Abstained : Mr. Buddenbaum
Absent : None

FLORENCE TOWNSHIP PLANNING BOARD

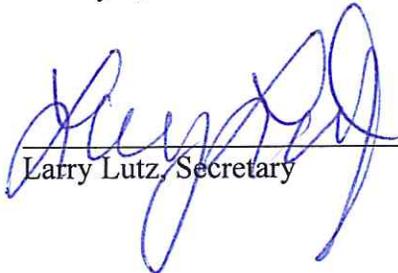
Dated: 6 JUNE 2019


B. Michael Zekas, Chairman

CERTIFICATION

BE IT REMEMBERED that the within written Resolution was duly adopted at a regular meeting of the Florence Township Zoning Board of Adjustment held on June 6, 2019 and memorializes a decision taken by the Board on May 6, 2019.

Dated: 6/06/2019


Larry Lutz, Secretary