

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
February 21, 2019
7:30 PM**

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board of Adjustment Chair Mike 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.

ROLL CALL

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

Mr. Rosenbach	Present	Mr. Newlin	Present
Mr. Flanagan	Present	Mr. Maselli	Excused
Mr. Rosenbaum	Present	Mr. Addonizio	Present
Mr. Symonds	Excused	Mr. Kearns	Excused
Ms. Chipperson	Present		

Board Attorney, Gary Hall, Board Engineer, Paul Fox, Board Planner (late), McKinley Mertz and Board of Adjustment Secretary Lori Taglairino were also present.

Mr. Hall swore in Mr. Fox as Board of Adjustment Engineer.

REGULAR MEETING

MINUTES

Mr. Flanagan made a motion to approve the January 17, 2019 minutes. The motion was seconded by Mr. Newlin. On a voice vote all eligible members were in favor of approving the minutes.

Mr. Flanagan tabled the January 27, 2019 Site Inspection minutes until the March 21, 2019 meeting.

ADMINISTRATIVE

Mr. Newlin noted that there will be an Affordable Housing presentation on March 21, 2019 at 6:30 pm prior to the regular meeting.

Mr. Hall gave a brief description of the Redevelopment Study.

RESOLUTIONS

<u>Application BOA# 16-18</u>	Phil Poto
	52 Blue Mill Road, B16/L20, R-3/R-1 Zone

Mr. Flanagan made a motion to adopt Resolution BOA# 16-18 Poto as written. It was seconded by Mr. Rosenbach. On a voice vote, all eligible members were in favor of adopting the resolution.

Application BOA# 19-18

Doug and Meghan Falduto
210 Lees Hill Rd. B47/L4, R-1 Zone

Mr. Flanagan made a motion to adopt Resolution BOA# 19-18 Falduto as written. It was seconded by Mr. Rosenbach. On a voice vote, all eligible members were in favor of adopting the resolution.

NEW BUSINESS

Application BOA# 01-19

Madeline S. Pitney 2008 Revocable Trust
34 Hunter Drive, B48, L8.01, R-1 Zone
Applicant requesting variance relief for a front setback, and pre-existing non-conforming lot as per NJSA 40:55D-70(c).

Presenting:

Thomas Malman, Attorney
Robert Moschello, Engineer
Robert Scialla, Architect

Mr. and Mr. were sworn in for testimony.

- Mr. Malman presented proposed plans for the construction of a new dwelling.
- Mr. Moschello presented Exhibit A-1, an aerial map of the block and lot and Exhibit A-2, a colored rendering of the existing conditions of the lot.
- Mr. Moschello noted that they are seeking a variance for a front setback.
- Mr. Moschello also presents Exhibit A-3, a colored rendering of the topography of the lot.
- Mr. Scialla, presented Exhibits A-4-A-9, architectural elevations and floor plans of the proposed dwelling.
- A Site Inspection was scheduled for March 16, 2019 at 9:00am.

Application BOA# 021-19

Brendan and Sharon Ryan
41 Village Road, B16/L7. R-1 Zone
Applicant requesting multiple variances for setbacks, building area and existing non-conforming lot size as per NJSA 40:55D-70(c).

Presenting:

Thomas Malman, Attorney
Richard Schommer, Engineer
Cindy Martinez, Architect

Mr. Schommer and Ms. Martinez were sworn in for testimony.

- Mr. Malman presented proposed plans for additions to the dwelling.
- Mr. Schommer presented Exhibit A-1, an aerial view of the existing conditions of the lot.
- Mr. Schommer presented Exhibit A-2, a color rendering of the existing conditions on the lot.
- Mr. Schommer presented Exhibit A-3, a color rendering of the proposed plan.
- Ms. Martinez presented Exhibits A-4-A-12, photos, and elevations of the existing home as well as the proposed plans.

- A Site Inspection was scheduled for March 16, 2019 at 9:45 am.

Application BOA# 18-18

Sandra and David Renzulli
42 Millbrook Rd., B17/L11.03, R-4/R-1 Zone
Applicant requesting variance relief for side and rear setbacks as per
NJSA 40:55D-70(c).

This application was carried until the March 21, 2019 due to lack of witnesses.

OLD BUSINESS

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 NJSA
40:55D-70(d) for a cell tower.

Presenting:

Richard Schneider, Attorney
Ms. Boschulte, RF Specialist.

The Board Attorney, Mr. Hall is recused from this application. Mr. Ed Purcell is providing counsel.

Dr. Eisenstein is providing Testimony on Radio Frequency.

Mr. Rob Simon is an objecting attorney representing Mr. Harsh Bansal of 6 Coppertree Lane

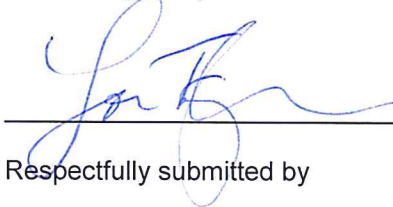
A transcript of the testimony is appended to these minutes.

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 11.01.



Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
RESOLUTION**

**Philip & Jo-Ann Poto - Application No. BOA 16-18
52 Blue Mill Road - Block 16, Lot 20
Adopted February 21, 2019**

WHEREAS, Philip and Jo-Ann Poto applied to the Harding Township Board of Adjustment for variances from Section 225-130(C) of the Land Use and Development Ordinance, which permits a maximum building area of 2,500 square feet and a maximum building area ratio of 6% based on the size of the applicants' lot, from Section 225-130(F), which requires a minimum front setback of 35', and from Section 225-115(B), which prohibits the enlargement of certain nonconforming structures, to authorize construction of

additions to the side and rear of their nonconforming residence on property located in R-3 and R-1 Zones (the front portion of the lot containing the residence is in the R-3 Zone) at 52 Blue Mill Road and designated on the Township Tax Map as Block 16, Lot 20; and

WHEREAS, the Board of Adjustment conducted a public hearing on the initial application a meeting on December 20, 2018 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 site inspection of the property at a special meeting on January 12, 2019, for which public notice was given as required by law; and

WHEREAS, the Board of Adjustment conducted a public hearing on a revised proposal at a meeting on January 17, 2019 at the Harding Township Municipal Building, 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 January 17, 2019, 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 21st day of February 2019, that approval of the variance application of Philip and Jo-Ann Poto is hereby memorialized as follows:

Findings Fact and Statement of Reasons

1. The applicants' property is located at 52 Blue Mill Road. The front 150' of the property that contains the existing residence is in a R-3 Zone, and the rear portion is in a R-1 Zone. It has a total lot size of 48,421 square feet that significantly exceeds the minimum requirement of 15,000 square feet for the R-3 Zone.

2. The property is improved with a single-family residence, carport and garage, as shown on a survey prepared by H2M Associates, Inc., dated October 31, 2017, that is included with architectural plans prepared by Miseo Assoc., P.A., Architects, initially dated October 10, 2018.

3. The applicants' property conform with all dimensional requirements for the R-3 Zone. The residential improvements conform with applicable bulk requirements, except for a nonconforming front setback of 20.75' versus a 35' minimum requirement for the R-3 Zone.

4. The applicants proposed to construct additions to the side and rear of the residence, as shown on the architectural plans. The enlarged first floor would include a new family and study, an expanded master bedroom suite, enlarged kitchen, a rear deck and related improvements.

5. Under the final proposal, the additions would increase the total building area from 2,487 square feet to 2,945 square feet and would increase the building area ratio from 5.1% to 6.1%, requiring variances from the applicable maximum building area ratio of 6% and the maximum total building area of 2,500 square feet in Section 225-130(C).

6. The proposed improvements would maintain the nonconforming minimum front setback of 20.7', requiring a variance from the 35' minimum in Section 225-130(F).

7. Variance relief is also required from Section 225-115(B) to permit the enlargement of a nonconforming structure.

8. Testimony in support of the application was provided by applicant Philip Poto and architect Miseo. They stated that the additions would provide more usable living space on the first floor. Architect Miseo testified that the design was intended to complement the historic central portion of the residence.

9. The Township Historic Preservation Commission commented on the application in a memorandum dated December 19, 2018, which stated that the residence is a contributing structure in the New Vernon Historic District. The memorandum recommended simplification of the design to reduce the impact of the proposed massing.

10. The Township Health Administrator commented on the proposal in a memorandum dated November 20, 2018 that indicated the absence of any objections to the requested variances, subject to review and approval of detailed plans prior to issuance of a building permit.

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

12. In response to questions raised at the site inspection, the proposal was revised to substitute a new garage addition for the existing garage, tool shed and car port and reduce the size of the proposed side entry porch. These changes were presented at the continued public hearing. In response to discussion of the modified design, the applicants agreed to eliminate dormers on the proposed garage addition.

13. The need for variance relief from the building area restrictions is attributable to the relatively low profile of the residence, the one story design of the proposed additions and the building area associated with the garage.

14. The proposed additions will not result in the appearance of excessive building mass on the property, particularly since the additions will be limited to one story and will be located to the side and rear.

15. The need for variance relief for the proposed front setback is attributable to the current nonconforming location of the residence. The side addition has been designed to be indented from the front building façade, thus resulting in a front setback that will be slightly greater than the current minimum front setback for the residence. The design also will mitigate the appearance of building mass. By virtue of these circumstances, the proposed front setback for the side addition is reasonable and appropriate in relation to the front setback for the existing residence.

16. The proposed additions will not result in any adverse impacts on adjacent properties under the particular circumstances of this property and proposal.

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

18. 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 building area limit of 2,500 square feet in Section 225-130(C) of the Land Use and Development Ordinance to permit construction of additions to the residence that will result in a total building area of 2,945 square feet, as shown on architectural plans prepared by Miseo Assoc., P.A., Architects, initially dated October 10, 2018 and last revised January 15, 2019.

2. A variance is hereby granted from the building area ratio limit of 6% in Section 225-130(C) of the Ordinance to permit construction of additions to the residence that will result in a ratio of 6.1%, as shown on the revised architectural plans.

3. A variance is hereby granted from the minimum front setback requirement of 35' in Section 225-130(F) of the Ordinance to permit construction of a side addition to the residence that will maintain the current nonconforming front setback of 20.7', as shown on the revised architectural plans.

4. A variance is hereby granted from Section 225-115(B) of the Ordinance to permit enlargement of the applicants' nonconforming residence by construction of additions, as shown on the revised architectural plans.

Variance Conditions

These variances are granted subject to the following conditions:

1. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

2. The applicants shall obtain a building permit and any other necessary approvals.

3. The applicants shall revise their proposal to eliminate the proposed dormers on garage roof. This change shall be shown on revised plans that shall be submitted for administrative review and approval prior to issuance of any building permits.

4. The applicants shall submit a corrected separate zoning table that is consistent with the zoning table on the plans for administrative review and approval prior to issuance of any building permits.

5. These variances are based on and authorize only the specific improvements proposed by the applicants as set forth in the testimony, application and revised plans, and new or amended variance approval shall be required for any different or additional improvements.

6. These variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and subsequently is pursued in a reasonably diligent manner.

Vote on Resolutions

For the Oral Resolution: Flanagan, Maselli, Rosenbach, Chipperson & Symonds.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Flanagan, Rosenbach & Chipperson.

Against the Form of the Written Resolution: None.

HARDING TOWNSHIP BOARD OF ADJUSTMENT

RESOLUTION

Douglas & Megan Falduto - Application No. BOA 19-18

210 Lee's Hill Road - Block 47, Lot 4

Adopted February 21, 2019

WHEREAS, Douglas and Megan Falduto applied to the Harding Township Board of Adjustment for variances from Section 225-122(F) of the Land Use and Development Ordinance, which requires minimum setbacks of 100' in the R-1 Zone, Section 225-122(C), which permits a maximum building area ratio of 3%, and Section 225-116(B), which prohibits the enlargement of certain nonconforming structures, to permit construction of a detached garage, generator and pad, one story rear addition, front entry landings and steps and related improvements to their residence on property located in a R-1 Zone at 210 Lee's Hill Road and designated on the Township Tax Map as Block 47, Lot 4; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a meeting on January 17, 2019 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 site inspection at a special meeting on January 27, 2019 for which public notice was provided; and

WHEREAS, at the special meeting on January 27, 2019, 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 21st day of February 2019, that approval of the variance application of Douglas and Megan Falduto is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The property is located in a R-1 Zone at 210 Lee's Hill Road. The property has a lot area only 1.278 acres, which is significantly less than the 3 acre minimum for the R-1 Zone.

2. The property is improved with a residence and barn. Due to the limited lot size and the unusual triangular shape of the lot, the lot does not have a permissible building envelope. As a result, all structures are nonconforming as to the minimum setback requirement of 100' for the R-1 Zone. The property also has a nonconforming building area ratio of 3.15% versus the applicable maximum of 3%.

3. The locations of the existing and proposed improvements were shown on variance plans prepared by Yannaccone Villa & Aldrich, LLC, dated December 17, 2018.

4. The applicants proposed to construct a detached garage, one story rear addition, rear porch and new front entry landings and steps, as shown on the variance plans and on architectural plans prepared by Hiland Hall Turner Architects, dated December 7, 2018. The expanded first floor would include an enlarged kitchen, and the reconfigured second floor would include a master bedroom suite. New entry landings and steps would be constructed on both front corners, a 16 square foot pad and generator would be installed, and a detached garage would be constructed to the left side of the residence, with related modification of the driveway area.

5. The proposed front entry steps and landings would have minimum front setbacks of 1.2' on the left side and 7.1' on the right side, and a minimum right side setback of 26.9', requiring variance relief from the 100' minimum setback requirement in Section 225-122(F).

6. The proposed rear addition would have a minimum right side setback of 31.5', requiring a variance from the 100' minimum setback requirement in Section 225-122(F).

7. The proposed detached garage would have a minimum left side setback of 82.2', requiring a variance from the 100' minimum setback requirement in Section 225-122(F).

8. The proposed detached garage would have a minimum front setback of 27.9', requiring a variance from the 100' minimum setback requirement in Section 225-122(F).

9. The proposed generator and pad would have a minimum front setback of 15', requiring a variance from the 50' minimum in Section 225-116(P)(4).

10. The proposed improvements would increase the nonconforming building area ratio from 3.15% to 5.03%, requiring a variance from the 3% maximum in Section 225-122(C).

11. The proposed improvements require a variance from the restriction against enlargement of certain nonconforming structures in Section 225-115(B).

12. The Township Health Department issued a memorandum dated December 27, 2018 that indicated that the proposed improvements appeared to be consistent with Health Department regulations, subject to submission of a detailed application prior to issuance of a building permit.

13. The Township Historic Preservation Commission issued a memorandum dated December 19, 2018 that indicated that the property is a contributing property.¹ The applicants' proposal was viewed positively based on the opinion that it would maintain the character of the historic residence as well as maintaining and/or enhancing the streetscape.

14. The applicants were represented in proceedings before the Board of Adjustment by Nicole Magdziak, Esq. and Thomas J. Malman, Esq. of Day Pitney, LLP.

15. Testimony in support of the application was provided by applicant Douglas Falduto and engineer Candace Davis, P.E., who explained the proposed improvements. They noted that the residence currently has a partial basement or crawl space beneath it. This undesirable condition would be addressed by raising the residence to install appropriate separation from the ground surface.

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

17. There was a discussion concerning potential modification of the proposed location of the detached garage to move it further from the street in order to increase the proposed front setback that requires variance relief. The applicant and engineer indicated that the selected location was based on proximity to the residence and the goal of avoiding additional site disturbance and paving.

18. The need for all of the requested variance relief is attributable to the very small size of the lot, its unusual shape, and the resulting nonconforming conditions for the existing improvements. In addition, Lee's Hill Road has a 66' right-of-way width that results in a substantial separation between the front lot line and the edge of pavement that is not included in the calculated minimum front setbacks.

19. The present nonconforming minimum front and side setbacks for the residence will not be significantly altered by the proposed improvements, which will enhance the appearance and residential use of the residence.

20. The proposed detached garage will be appropriately sited on the property in relation to the location of the residence. Construction of a garage represents a reasonable improvement for a residential property.

21. The building area ratio variance is attributable to the very small size of the applicants' property. The enlarged residence will continue to be modest in size.

22. Under the particular circumstances of this property and proposal, granting the requested variances will improve compatibility with the surrounding area.

23. In the case of this specific property, its unusual shape and limited size, and the location 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 improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

24. The variances requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning 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 front entry steps and landings that will have minimum front setbacks of 1.2' on the left side and 7.1' on the right side, and a minimum right side setback of 26.9', as shown on variance plans prepared by Yannaccone

¹ The memorandum referred to the New Vernon Historic District, but this was an obvious inadvertent error, since the property is in the Logansville Historic District.

Villa & Aldrich, LLC, dated December 17, 2018, and on architectural plans prepared by Hiland Hall Turner Architects, dated December 7, 2018.

2. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Ordinance to permit construction of a rear addition with a minimum right side setback of 31.5', as shown on the variance plans and architectural plans.

3. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Ordinance to permit the construction of a detached garage with a minimum left side setback of 82.2', as shown on the variance plans and architectural plans.

4. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Ordinance to permit the construction of a detached garage with a minimum front setback of 27.9', as shown on the variance plans and architectural plans.

5. A variance is hereby granted from the 50" minimum front setback in Section 225-116(P)(4) to permit installation of a pad and generator with a minimum front setback of 15', as shown on the variance plans and architectural plans.

6. A variance is hereby granted from the 3% maximum building area ratio restriction in Section 225-122(C) of the Ordinance to permit the construction of improvements that will increase the nonconforming building area ratio from 3.15% to 5.03%, as shown on the variance plans and architectural plans.

7. A variance is hereby granted from the restriction against enlargement of certain nonconforming structures in Section 225-115(B) of the Ordinance to permit construction of additions to the residence as shown on the variance plans and architectural plans.

Variance Conditions

1. These variances are granted subject to payment of any outstanding technical review fees, issuance of a building permit and any other necessary approvals.

2. These variances are granted based on the particular improvements proposed by the applicants as set forth in the application, testimony and plans. New or amended variance relief may be required for any materially different improvements.

3. 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, Rosenbach, Chipperson, Kearns, Symonds & Addonizio.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Flanagan, Newlin, Rosenbach, Chipperson and Addonizio.

Against the Form of the Written Resolution: None.