

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

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board Vice-Chair, Mr. Rosenbaum 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.

PLEDGE OF ALLEGIANCE

REGULAR MEETING

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(7:07)	Mr. Boyan	Present
Mr. Rosenbaum	Present	Mr. Symonds	Present	Mr. Flanagan	Present (8:15)

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

ADMINISTRATIVE

Mr. Rosenbaum announced the following scheduling & procedural matters:

Mr. Rosenbaum noted that the Board will adjourn into Executive Session at the end of the meeting.

<u>Application BOA # 08-22</u>	Ryan & Carolyn Bott
	112 Jenks Road, B25/L30, R-3 Zone (Withdrawn)

MINUTES

Tabled until the November meeting.

RESOLUTIONS

<u>Application BOA# 14-20</u>	Donald & Eliza Murphy
	49 Meyersville Road, B55/L5, R-1 and R-2 Zones

Mr. Newlin made a motion to adopt Resolution BOA# 14-20 Murphy. It was seconded by Mr. Symonds. A roll call vote went as follows:

For: Symonds, Newlin, and Cammarata and Rosenbaum
Against: None

Application BOA# 16-18
Amendment

Phil Poto
52 Blue Mill Road, B16/L20

Mr. Symonds made a motion to adopt Resolution BOA# 16-18 Poto Amendment. It was seconded by Mr. Cammarata. A roll call vote went as follows:

For: Rosenbaum, Addonizio, Symonds, Maselli, Cammarata and Boyan

Against: None

Resolution BOA# 10-2022

Do Not Exceed for Steve Mlenak

Mr. Rosenbaum read the resolution into the record.

Mr. Newlin made a motion to adopt Resolution BOA# 10-2022 Do Not Exceed for Steve Mlenak. It was seconded by Mr. Symonds. On a voice vote all were in favor of adopting the resolution.

The resolutions are appended to the minutes.

NEW BUSINESS

Application BOA# #07-22

Rick & Caroline Michalak
229 Blue Mill Road, B4/L4
Applicant is requesting variance relief for a front and side setbacks of N.J.S.A.40:55D-70(c).

Presenting:

Caroline Michalak, Owner
Cindy Boerner-Lay Architect

Ms. Boerner-Lay and Ms. Michalak were sworn in for testimony.

- Ms. Michalak presented the present challenges with the existing layout of the home.
- Ms. Michalak is proposing an addition to the rear and side of the home and extend the outdoor space to better integrate the outdoor living space with the home.
- Ms. Michalak noted that the HPC report approved of the proposed renovations.
- Mr. Boerner-Lay outlined the variances for front and side setbacks for the principal and accessory structures.
- There was a discussion to reduce the patio coverage.
- There was a discussion to try to relocate the A/C condensers.

Mr. Addonizio made a motion to approve the application subject to the changes stated on the record. It was seconded by Mr. Maselli. A roll call vote went as follows:

For: Sovolos, Maselli, Rosenbaum, Newlin, Addonizio, Symonds, and Cammarata

Against: None

Application BOA# #09-22

Granville & Susan Conway

93 Village Road, B16/15

Applicant is requesting variance relief for a front and side setbacks of N.J.S.A.40:55D-70(c).

Presenting:

Susan Conway, Owner

Carolyn Young, Architect

Mr. Symonds recused himself from the application.

Ms. Conway and Ms. Young were sworn in for testimony.

- Ms. Young presented proposed plans for a one-story kitchen and mudroom addition that requires setback relief for a historic home.
- Ms. Young noted that there will be a small patio off the rear of the kitchen.

Mr. Newlin made a motion to approve the application as presented. It was seconded by Ms. Sovolos. A roll call vote went as follows:

For: Sovolos, Maselli, Rosenbaum, Newlin, Addonizio, Boyan, and Cammarata

Against: None

OLD BUSINESS

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

Michael Tobia, Planner

Mr. Flanagan arrived at 8:15

Mr. Symonds rejoined the meeting

Mr. Tobia was sworn in for testimony

- Mr. Brady noted that the Preiss family started renovating the house in 1997.
- Mr. Brady acknowledged that some structures violated zoning regulations.
- Mr. Brady noted the prior illegal use of a structure as a rental.
- Mr. Brady stated that they are seeking post-construction approval for several of the accessory structures on the property.

- Mr. Tobia gave an overview of the property.
- Mr. Tobia presented Exhibit A-1, photos of existing conditions on the property.
- The Board noted their concern with the lot coverage and the garage being situated in front of the principal structure. The Board requested the removal of lot coverage.
- There was a discussion regarding which side is the front yard.
- The Board requested the applicant return with revised plans with no further notice.

The Board to a 5-minute break at 9:00.

The roll was called after the break. 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

Application BOA #18-21

529 Waterfront Properties, LLC
595 Van Beuren Road, B5/L8
Appeal of Tree Officer Decision

Presenting:

Arnold Lakind, Attorney

Scott Collins, Defendant Attorney

Mr. Addonizio recused himself from the application.

Mr. Hall, the attorneys, and the Board discussed the parameters of the upcoming hearing.

Mr. Flanagan made a motion to limit the hearing to actions that have taken place in accordance with the court order since Mr. Linson sent the letter to the Shade Tree Advisory Committee. The testimonies will be from the Township Arborist and Arborists for the property owners. It was seconded by Mr. Rosenbaum. A roll call vote went as follows:

For: Flanagan, Sovolos, Rosenbaum, Newlin, Maselli, and Cammarata

Against: Symonds

RESOLUTION TO ADJOURN INTO EXECUTIVE SESSION--Mr. Flanagan

Resolution BOA# 11-2022

Resolution to Adjourn into Executive Session

Mr. Rosenbaum read the resolution into the record.

Mr. Addonizio returned to the meeting.

A motion was made by Mr. Rosenbaum to adjourn into Executive session. It was seconded by Mr. Flanagan. A roll call vote went as follows:

For: Flanagan, Sovolos, Rosenbaum, Newlin, Maselli, Symonds, and Addonizio

Against: None

ADJOURNMENT INTO EXECUTIVE SESSION

Mr. Flanagan adjourned the meeting into executive session at 10:22

Lori Taglairino

Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION

**Philip & Jo-Ann Poto - Application No. BOA 16-18 (Amended)
52 Blue Mill Road - Block 16, Lot 20
Adopted October 20, 2022**

WHEREAS, Philip and Jo-Ann Poto applied to the Harding Township Board of Adjustment for amendment of the variance approval set forth in a resolution adopted on February 21, 2019 that granted 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 lot size, 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 reconstruction of their nonconforming residence on property located in R-3 and R-1 Zones 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 application for amended approval at a meeting on September 15, 2022, 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 determined that a site inspection of the property was not necessary by virtue of the particular characteristics of the applicants' property and the limited changes relative to the prior resolution and approval; and

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

WHEREAS, at the meeting on September 15, 2022, the Board of Adjustment adopted an oral resolution approving the application for amended variance approval, 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 20th day of October 2022, that the oral approval of the application of Philip and Jo-Ann Poto for amended approval is hereby memorialized as follows:

Findings Fact and Statement of Reasons

The applicants' property is located at 52 Blue Mill Road. The front 150' of the property that previously contained a single-family 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.

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

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

3. A substantial area of the property to the rear of the residence site is constrained by regulated freshwater wetlands and transition areas. The rear yard also contains a subsurface septic field. These conditions limit the developable area of the property.

4. By resolution adopted by the Board of Adjustment on February 21, 2019, variance relief was granted to authorize construction of additions to the side and rear of the prior residence. The Board of Adjustment incorporates by reference the findings and conclusions in the resolution.

5. After construction was underway and the inside of the foundation was uncovered, a determination was made based on the perceived questionable structural condition that a significant portion of the foundation should be replaced, contrary to the expectation at the time of the prior variance approval. This changed circumstance led to questions concerning the potential ability to modify the proposed footprint to reduce the extent of required variance relief, which resulted in the present application for amended approval.

6. Specifically, the applicants revised their proposal to eliminate replacement of enclosed front porch, as shown on revised plans last dated July 22, 2022, that were submitted with the request for amended approval. The changes also included removal of an area of driveway paving, limited changes to the building façade and other adjustments.

7. Under the amended proposal, the building area ratio would increase from 5.1% to 5.6%, rather than 6.1%, thus eliminating the need for a variance from the applicable maximum building area ratio of 6% in Section 225-130(C).

8. Under the amended proposal, the total building area would increase from 2,487 square feet to 2,718 square feet, rather than 2,945 square feet, requiring less extensive variance relief from the applicable maximum total building area limit of 2,500 square feet in Section 225-130(C).

9. The amended proposal would have a front setback of 27', rather than maintaining the nonconforming minimum front setback of 20.7', requiring less extensive variance relief from the 35' minimum in Section 225-130(F).

10. Variance relief would continue to be required from Section 225-115(B) to permit enlargement of a nonconforming structure.

11. Testimony in support of the application was provided by applicant Philip Poto and architect Christine Miseo, who explained the reason for the decision to replace a significant portion of the foundation. They also reaffirmed prior testimony that the additions would provide more usable living space on the first floor and that the design was intended to compliment the historic center portion of the residence.

12. The owners of the abutting properties on each side spoke in favor of the application, noting that the prior residence had been in poor condition and appearance. No other neighbor or member of the public raised questions or comments on the amended application.

13. The Board reaffirms prior determinations set forth in the resolution concerning the propriety of all requested variance relief and further notes that the revised proposal requests less extensive variance relief than previously granted.

14. As stated previously, 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.

15. Approval of the amended proposal will not result in the appearance of excessive building mass on the property, particularly since the expanded footprint will be limited to one story and will be located to the side and rear. The design also will mitigate the appearance of building mass.

16. The need for variance relief for the proposed front setback is attributable to the nonconforming location of the prior residence and is not inconsistent with front setbacks for nearby residences. It would not be practical or appropriate to modify the building footprint to further

increase the front setback.

17. Approval of the amended proposal will not result in any adverse impacts on adjacent properties under the particular circumstances of this property and proposal.

18. In the case of this specific property, the extensive development constraints applicable to the rear portion of the property, and the location and characteristics of the prior residence and proposed additions, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposal, 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 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 2,718 square feet, as shown on architectural plans prepared by Miseo Assoc., P.A., Architects, initially dated October 10, 2018, and last revised July 22, 2022.

2. 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 residential improvements that will increase the nonconforming front setback of 20.7' to 27', as shown on the revised architectural plans.

3. A variance is hereby granted from Section 225-115(B) of the Ordinance to permit enlargement of the applicants' nonconforming residence, 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. 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.

4. 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: Cammarata, Flanagan, Maselli, Rosenbaum, Sovolos, Symonds & Boyan.

Against the Oral Resolution: None.

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
RESOLUTION**

**Donald & Eliza Murphy - Application No. 14-20
49 Meyersville Road - Block 55, Lot 5**

Adopted October 20, 2022

WHEREAS, Donald and Eliza Murphy applied to the Harding Township Board of Adjustment for variances from the 50' minimum front setback requirement for the R-2 Zone in Section 225-126(F) of the Land Use and Development Ordinance and from the restriction against enlargement of nonconforming structures in Section 225-115(B), to permit extensive renovation and enlargement of their single-family residence, including construction of a new covered front porch, and for temporary variance relief from Section 225-121(A)(1), which permits only one single family residence and one accessory residence per lot, to allow modification of an existing accessory structure for temporary use and occupancy as a second accessory residence while the current residence is being extensively renovated, on property located in a R-2 Zone and RR Zone at 49 Meyersville Road and designated on the Township Tax Map as Block 55, Lot 5; and

WHEREAS, the Board of Adjustment conducted an initial public hearing on the application at a meeting on May 19, 2022, 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 noticed public site inspection of the applicants' property on June 2, 2022; and

WHEREAS, the Board of Adjustment conducted a continued public hearing on the application at a meeting on September 15, 2022, 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 September 15, 2022, the Board of Adjustment adopted an oral resolution granting the requested variance relief, 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 20th day of October 2022, that the oral approval of the variance application of Donald and Eliza Murphy is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The applicants' property is located at 49 Meyersville Road. It previously consisted of 2 contiguous tax lots in Harding Township (Lots 4 and 5 in Block 55) that were consolidated by the applicants by deed dated January 29, 2022. The applicants also own contiguous undeveloped land in Chatham Township designated on the Chatham Township Tax Map as Block 48.20, Lot 189. The applicants' property has a combined total area of 51.3350 acres. The portion of the property within 200 feet of the road right-of-way line is in a R-2 Zone, and the balance of the property in Harding Township is in a RR Zone. No changes are proposed as to the land in Chatham Township.

2. The portion of the property in a R-2 Zone is improved with an older single-family residence that is nonconforming due to the front setback of 47.9' that is less than the applicable minimum of 50', as shown on variance plans prepared by H2M Associates, Inc., dated March 28, 2022.

3. The large area of the property to the rear in a RR Zone and extending into Chatham Township contains various accessory structures, including one that is improved and occupied as an accessory residence. No changes are proposed to any accessory structure except for the accessory structure proposed to be converted to temporary accessory residence use as described below in Paragraph 9.

4. Portions of the applicants' property are devoted to agricultural use.

5. Significant portions of the property contain regulated freshwater wetlands and are in a designated special flood hazard area, including the location of the accessory structure proposed to be converted to temporary accessory residence use as described below in Paragraph 9.

6. The applicants propose to extensively renovate and expand the principal residence in the R-2 portion of the property to modernize the residential improvements and provide additional living space, including a full second floor, basement level improvements, an elevated deck to the rear, and a covered front porch, as shown on the variance plans and on architectural plans prepared by John J. Haeberle, AIA, dated May 4, 2022.

7. The new covered front porch for the expanded residence would have a minimum front setback of 43.7', requiring a variance from

the 50' minimum front setback requirement in Section 225-126(F).

8. Variance relief is also required from Section 225-115(B) to allow enlargement of the applicants' nonconforming residence.

9. The applicants also propose to convert an existing accessory structure in the RR Zone portion of the property for use and occupancy as an accessory residence while the current principal residence is being extensively renovated. Upon completion of significant renovation and enlargement of their residence, all bathing facilities, beds and related improvements would be removed from the temporary accessory residence, and it would no longer be occupied and used as an accessory residence.

10. This proposal is contrary to Section 225-121(A)(1) of the Ordinance, which permits only one accessory residence on a lot, while the applicants' property already contains both a principal residence and an accessory residence. Therefore, the applicants require temporary use variance relief from this zoning use restriction pursuant to N.J.S.A. 40:55D-70(d) to permit a temporary second accessory residence.

11. The applicants were represented in proceedings before the Board of Adjustment by Amanda C. Wolfe, Esq., of Ventura, Miesowicz, Keough & Warner, P.C.

12. Township Planner McKinley Mertz issued a memorandum dated May 10, 2022, that provided detailed comments on the application.

13. Township Engineer Paul Fox issued a memorandum dated May 18, 2022, that also provided detailed comments on the application, including identification of separate required approvals from NJDEP and the Planning Board.

14. Testimony in support of the application was provided by the applicants and by engineer Richard Schommer, who also issued a letter dated September 6, 2022, that responded to the comment memoranda issued by Township Planner Mertz and Township Engineer Fox. Mr. Schommer acknowledged that receipt of required DEP approvals, Planning Board approval of a special flood hazard development permit, Health Department approval, and any other non-zoning permits would be preconditions to implementation of the variance approvals.

15. There was a discussion concerning whether the expanded principal residence would comply with residential building height restrictions. Compliance with the 35' calculated height limit was not disputed. Compliance with the separate 2-1/2 story limit was dependent on whether the improved lower level that would be fully above grade in the rear should be classified as a "story". The pertinent definition in the Ordinance is based on interior ceiling height relative to the surrounding average grade. Engineer Schommer indicated that the surrounding finished grade could be adjusted to avoid separate story classification and agreed to have a proposed grading plan reviewed by Engineer Fox prior to any construction. Engineer Fox stated that there was no apparent impediment to adjusting the finished grade to avoid classification of the lower level as a separate story and thus did not object to the suggested approval condition.

16. The need for a variance from the front setback requirement is attributable to the current nonconforming location of the residence and the proposed addition of a one story covered front porch.

17. The proposed significant renovation and expansion of the principal residence would significantly enhance its residential use and appearance.

18. The limited deviation from the minimum front setback requirement would not result in any adverse impacts, particularly in light of the improved appearance of the residence and the open one-story design of the covered front porch.

19. Under the specific circumstances of this property and the characteristics of the existing and proposed improvements, strict enforcement of the front setback requirement and the restriction on enlargement of nonconforming structures would impose practical difficulties and undue hardship on the applicants by precluding the proposed substantial renovation and enlargement of the residence, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

20. With respect to the request for a temporary use variance, occupancy of the temporary residence would be limited to the applicants' household during the period when they would have to vacate the principal residence during substantial renovation. Therefore, there would be no increase in the number of households residing on the property, and no impact on surrounding property. This would allow the applicants to continue to reside on the property, thus facilitating direct management of the agricultural use of the property.

21. There was considerable discussion of potential measures to ensure termination of the accessory residence use once the principal residence may be re-occupied. A determination was made that this could be addressed by removal of all bathing facilities at that time. Other sanitary facilities could remain without raising zoning use issues. The applicants agreed to an approval condition requiring such action.

22. The applicants agreed to post a performance guarantee to cover building restoration costs to ensure that the second accessory residential use cannot be conducted on the property beyond the term of any temporary variance relief.

23. In the case of this specific property and the location and characteristics of the existing and proposed improvements, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties and undue hardship on the applicants by precluding creation of a temporary accessory residence on the property that can be occupied by the applicants while their residence is being significantly renovated and enlarged, thus allowing them to remain on the property. These circumstances satisfy the special reasons requirement under N.J.S.A. 40:55D-70(d) for the requested temporary use variance relief.

24. All of 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 temporary use variance is hereby granted from Section 225-121(A)(1) of the Land Use and Development Ordinance to permit creation of a temporary accessory residence subject to the specific conditions and time limits set forth below, while the present principal residence on the applicants' property is being significantly renovated and enlarged, as shown on variance plans prepared by H2M Associates, Inc., dated March 28, 2022, and on architectural plans prepared by John J. Haeberle, AIA, dated May 4, 2022.

2. A variance is hereby granted from the 50' minimum front setback requirement in Section 225-126(F) of the Ordinance to permit a minimum front setback of 43.7' for the expanded residence, as shown on the plans.

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

Variance Conditions

These variances are granted subject to the following conditions:

1. The temporary use variance shall expire as of the earlier of: (i) 60 days after issuance of a temporary certificate of occupancy for the renovated residence; or (ii) 18 months after issuance of the building permit for the residence. Prior to expiration of this variance all bathing facilities shall be removed from the temporary accessory residence, subject to review and confirmation by the Township Engineer or designee.

2. In order to ensure compliance with the preceding time limit condition, the applicants shall post with the Township of Harding a performance guarantee to cover the cost of demolition (which may apply to the new structure if construction work is prematurely halted) and site restoration in the event that such work has not been performed by the applicants prior to expiration of the temporary variances. The performance guarantee shall be in an acceptable form and in an amount determined to be sufficient by the Township Engineer.

3. These variances shall not be effective and no building permit shall be issued for either structure unless and until the following conditions have been met:

- a. Approval and posting of the performance guarantee required by the preceding condition.
- b. Payment by the applicants of any outstanding property taxes and technical review fees.

- c. Receipt of all approvals required by NJDEP, as confirmed by the Township Engineer.
- d. Receipt of a special flood hazard development permit from the Harding Township Planning Board.
- e. A determination by the Township Engineer based on review of a grading plan that the finished grade for the residence will not result in classification of the lower level as a separate story.
- f. Receipt of Board of Health approval for the enlarged principal residence and also for previously installed septic improvements for the accessory structure proposed to be modified for use as a temporary accessory residence.
- g. Receipt of any other necessary approvals, if any.
- h. Compliance with all applicable legal requirements for issuance of a building permit.
- 4. These variances are based on and authorize only the specific proposal presented by the applicants as set forth in the testimony, application and plans and the specific limitations as to the term of the temporary variance relief.
- 5. Any outstanding technical review fees shall be promptly paid on request.
- 6. The accessory structure modified for temporary accessory residential use shall not be occupied prior to issuance of a certificate of occupancy for the modifications.
- 7. These variances shall expire if a building permit for the new residence is not issued within one year of the date of this resolution and is subsequently pursued in a reasonably diligent manner.

Vote on Resolution

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

Against the Oral Resolution: None.

For the Form of the Written Resolution:

Against the Form of the Written Resolution:

**TOWNSHIP OF HARDING BOARD OF ADJUSTMENT
RESOLUTION BOA # 10-2022**

BOA# 10-2022 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 previously appointed Steven Mlenak of the firm Greenbaum, Rowe, Smith & Davis, LLP to provide legal services in the matter New York SMSA Limited Partnership d/b/a Verizon Wireless v. The Harding Board of Adjustment of The Township of Harding, New Jersey for Docket no. 2:22-cv-04531; and

WHEREAS, WHEREAS, due to additional legal services now anticipated for this matter, there exists a need to increase the contract amount by an additional \$40,000.00; and

WHEREAS, the Board of Adjustment recommends that the total contract amount be increased to \$45,000.00; and

WHEREAS, the Chief Financial Officer has certified that additional funds will be available pending Township Committee approval of the transfer of funds in November and shall be encumbered through account # 01- 2022-1185- 0185-2-00035 in an amount not to exceed \$45,000.00.

BE IT RESOLVED, by the Board of Adjustment of the Township of Harding in the County of Morris and State of New Jersey that an amendment to the existing contract with the firm Greenbaum, Rowe, Smith & Davis, LLP to increase the contract amount by \$40,000.00 for a total not to exceed amount of \$45,000.00 be and is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Adjustment be and are hereby authorized to execute an appropriate Amendment to Contract on behalf of the Board to reflect the increased 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: October 20, 2022

**RESOLUTION BOA# 11-2022
BOARD OF ADJUSTMENT, TOWNSHIP OF HARDING
MORRIS COUNTY, NEW JERSEY
OCTOBER 20, 2022
RESOLUTION AUTHORIZING BOARD OF ADJUSTMENT
TO MEET IN EXECUTIVE SESSION**

WHEREAS, N.J.S.A. 10:4-13 of the Open Public Meetings Act permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, the Board of Adjustment is of the opinion that such circumstances presently exist.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF HARDING, COUNTY OF MORRIS AND STATE OF NEW JERSEY as follows:

1. The public shall be excluded from discussion of an action upon the specified subject matter.
2. The subject matters to be discussed are as follows:
 - ☐ Contract Negotiation – None
 - ☐ Personnel Matter – None
 - ☒ Litigation –NY SMSA Limited Partnership d/b/a Verizon Wireless vs the Harding Township Board of Adjustment
 - ☒ Attorney-Client Privilege – Litigation
 - ☐ Collective Bargaining Agreement – None
 - ☐ Other – as authorized by N.J.S.A. 10:4-12 -- None
3. Minutes reflecting the actions taken, the vote of each member, and any other information required to be shown in the minutes by law, shall be promptly available to the public when the matters discussed are resolved, to the extent that making such matters public shall not be inconsistent with section N.J.S.A. 10:4-12.
4. The Board of Adjustment will not return into open session.
5. This Resolution shall take effect immediately.

DATED: October 20, 2022