

RESOLUTION NO. 21-02

**WATERFORD TOWNSHIP
PLANNING BOARD**

RESOLUTION MEMORIALIZING DECISION

- Approved
- General Conditions
- Specific Conditions
- Denied

- Minor Subdivision
 - Major Subdivision
 - Major Subdivision Preliminary
 - Major Subdivision Final
 - Minor Site Plan
 - Major Site Plan, Preliminary
 - Major Site Plan, Final
 - Conditional Use
 - Waiver
 - Use Variance
 - Bulk Variance(s)
 - Other:
- Application No. PB-2020-13
Applicant(s): Peter Scardilli
- Owner: Peter Scardilli
- Block: 2706, Lot: 2
Zone: R-1 Residential
- Action: February 1, 2021

WHEREAS, on February 1, 2021, the Waterford Township Planning Board (“Board”) considered an application for bulk variance relief to permit the construction of a one-story, 15’x20’ (300 sf) addition to an existing single-family home at 639 Fifth Street, designated as Block 2706, Lot 2 on the Township Tax Map (“Subject Property”) located in the Township’s Residential (R-1) Zoning District (the “Application”); and

WHEREAS, the Applicant submitted the following plans, materials, and other documents with the Application, either prior to and/or during the Applicant’s public hearing before the Board: Survey prepared by JTS Engineers and Land Surveyors, dated November 2, 2020; color site photographs with simulations of the property line; aerial photographs of the Subject Property with simulations of the property lines (collectively, the “Applicant’s Plans”); and

WHEREAS, in reviewing the Application and the Applicant’s Plans in light of the requirements established by the Waterford Township Land Use, Development and Zoning Ordinance, Ordinance No. 97-14 (“Township Code”), and the standards and requirements applicable to lots located within the R-1 Zone, the Board and Board Professionals determined the Application and proposed improvements require or may require the following relief:

- (1) bulk variance relief to permit the construction of the proposed addition to be set back 16 ft from the northerly property line whereas a setback of 20 ft is required; Township Code § 176-122C.(2)(b)[2]; and
- (2) bulk variance relief to permit the construction of the proposed addition to be set back 6.5 ft from an existing accessory shed structure whereas a minimum setback of 10 ft is required between a principal structure and an accessory structure; Township Code § 176-118D(11); and

WHEREAS, Mr. and Mrs. Peter Scardilli (the “Applicant”) appeared on their own behalf, were sworn in, introduced the Application, described the Subject Property, the reasons for the requested relief, the benefits of the requested relief to the Applicant and the Township, and the hardship imposed upon the Applicants were the requested relief not granted; and

WHEREAS, the Applicants testified they seek bulk variance relief to permit the construction of a one-story, first floor 15’x20’ (300 sf) addition to their existing single-family home, which is a two-story home built in 1868; that the addition will be constructed on the north side of their home and will include a master bedroom and bathroom, with both an interior and exterior door; that the Applicant chose this location on the Subject Property for the addition because it is the only way to expand their home in a way that will suit the Applicant’s mother-in-law in that the addition will be built to be fully wheelchair accessible, and further because it is the only location for the addition given existing conditions and improvements on their property, including an above-ground pool, a 12’x16’ shed, a 10’x12’ shed, and a 7’x7’ plastic shed; that the Applicant has spoken with their neighbors and the neighbors do not have any objection to the construction of the addition; that the proposed addition will match and complement the principal structure in visual appearance and aesthetic; and that they are therefore requesting any variance relief determined to be necessary by the Board to permit the proposed addition in the location depicted on the Applicant’s Plans; and

WHEREAS, the Board Engineer, Robert Scott Smith, P.L.S., PP, was sworn in, summarized the Application for the Board, and presented and discussed his January 15, 2021 Review Letter (“Engineering Review Letter”), incorporated by reference herein, with the Board and the Applicant; and

WHEREAS, the Board Engineer clarified and confirmed that the Subject Property is a corner lot situated on Ellwood Avenue and Fifth Street, consisting of 1.4 acres and located in the Township’s R-1 Zone; that the Applicant requires two variances to permit the proposed addition, specifically: bulk variance relief to permit the construction of the proposed addition to be set back 16 ft from the northerly property line whereas a setback of 20 ft is required and to permit the construction of the proposed addition to be set back 6.5 ft from an existing accessory shed structure whereas a minimum setback of 10 ft is required between a principal structure and an accessory structure; that given the existing improvements, configuration, and layout of the Subject Property, and the proposed use of the addition to be wheelchair accessible for a member of the Applicant’s family, it is his opinion that the Applicant has chosen the most practical location for the addition, such that strictly imposing the Township Code requirements for side yard and accessory structure setbacks would impose an undue hardship on the Applicants, meaning the Board may consider

granting the variances required to approve the Application as N.J.S.A. 40:55D-70c(1) hardship variances; and

WHEREAS, during the discussion of the Application with the Board, the Applicant agreed to the following conditions of approval, in addition to any other conditions agreed to on the record by the Applicant: (1) to comply with, satisfy, and/or address any and all conditions, comments, and recommendations set forth in the Engineering Review Letter; (2) to install gutters and roof drains to mitigate stormwater runoff from the proposed addition; and (3) to comply with all standard conditions of approval applicable to the Applicant's approval, if any; and

WHEREAS, the floor was opened to the public, and no members of the public appeared to testify; and

WHEREAS, based on the full and complete record before the Board, including the Application, the Applicant's Plans, and all testimony and evidence submitted to the Board by the Applicant before and during the Applicant's public hearing, as summarized in the foregoing "WHEREAS" paragraphs, which, in addition to any factual findings set forth below, are expressly adopted as the Board's "Findings of Fact," the Board finds and concludes as a matter of law that the Applicant has sustained his burden of proof to support the requested variance(s) as set forth below:

- (1) bulk variance relief to permit the construction of the proposed addition to be set back 16 ft from the northerly property line whereas a setback of 20 ft is required; Township Code § 176-122C.(2)(b)[2]; and
- (2) bulk variance relief to permit the construction of the proposed addition to be set back 6.5 ft from an existing accessory shed structure whereas a minimum setback of 10 ft is required between a principal structure and an accessory structure; Township Code § 176-118D(11); and

WHEREAS, in light of the testimony and other evidence presented, the Board determined that the Applicants have sustained the burden of proof to support the requested variance(s) in accordance with the statutory requirements set forth in the MLUL, N.J.S.A. 40:55D-70c(1); that is, that is, due to the unique configuration of the Subject Property as a corner lot on the southwest corner of Ellwood Avenue and Fifth Street, and because of the existing conditions and improvements on the Subject Property, namely, the Applicant's above-ground pool, 12'x16' shed, 10'x12' shed, and 7'x7' plastic shed, as well as the purpose of the addition to be accessible to a member of the Applicant's family who requires the use of a wheelchair, the strict application of the Township Code requirements for side yard and accessory structure setbacks in the R-1 Zone would result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon, the Applicant, given that the Applicant would need to tear down and relocate existing, permanent improvements and/or would otherwise be unable to build the addition to meet the needs of the Applicant's family member; therefore, bulk variance relief permitting the proposed improvement(s) as represented to the Board at the Applicant's public hearing is warranted so as to relieve such difficulties or hardship; and

WHEREAS, in light of the testimony and other evidence presented, the Board further determined that the Application can be granted without substantial detriment to the public good because the location of the proposed addition will not negatively impact properties that are adjacent to the Subject Property, particularly because the Applicant seeks only a 4 ft deviation from a 20 ft setback requirement such that the Applicant's resulting setback will be 80% compliant with the Township Code requirement; and further because no adjacent property owners appeared at the Applicant's public hearing to object to the Application; in addition, granting the variance will not substantially impair the intent and the purpose of the Township Code and Master Plan given that the deviation from the R-1 Zone bulk requirements is relatively minor, with only a 4 ft deviation from a 20 ft setback requirement and 3.5 ft deviation from a 10 ft setback requirement, with the proposed improvement clearly benefitting the health and welfare of the Township's residents, so that the Application as a whole is consistent with one or more objectives of the MLUL and Township Master Plan; N.J.S.A. 40:55D-70; and

WHEREAS, the requested relief involves no inherent public dangers or substantial public burdens and provides no adverse impact on the neighborhood such that the benefits of the Application clearly outweigh any harm; and

WHEREAS, the Board Solicitor, Stephen J. Boraske, Esq., summarized the Application for the Board and directed the Board to conduct a single vote for the requested bulk variances; and

WHEREAS, a motion was duly made by Mr. Becker and seconded by Mayor Wade, to grant the requested bulk variance(s) detailed herein to permit the proposed improvement at the Subject Property; and

ROLL CALL VOTE on the motion was recorded as follows:

IN FAVOR: WADE. YEATMAN. WARD. MAURIELLO.
HANNA. HOWARTH. ZITO.

OPPOSED: None. **ABSTAIN:** None.

NOW, THEREFORE, BE IT RESOLVED, that the Application for bulk variance relief is hereby **GRANTED** by a vote of SEVEN (7) in favor and zero (0) against; and

BE IT FURTHER RESOLVED, that all the approvals hereby granted are made subject to the following conditions:

1. The Applicant has been granted the following variances to permit the proposed accessory garage structure:
 - a. bulk variance relief to permit the construction of the proposed addition to be set back 16 ft from the northerly property line whereas a setback of 20 ft is required; Township Code § 176-122C.(2)(b)[2]; and

- b. bulk variance relief to permit the construction of the proposed addition to be set back 6.5 ft from an existing accessory shed structure whereas a minimum setback of 10 ft is required between a principal structure and an accessory structure; Township Code § 176-118D(11).
2. The proposed improvement(s) associated with the Application shall in all other respects comply with all applicable Township Code requirements or the Applicant shall reappear before the Board for additional relief as may be necessary.
3. The Applicant shall install gutters and roof drain collectors on the addition, subject
4. The Township Construction Official, Zoning Officer, and/or other Township official shall not issue any construction or other permits permitting the construction of the accessory structure permitted by this Resolution without written confirmation from the Board Attorney and Board Engineer that all conditions of this approval have been satisfied.
5. The Applicant shall comply with the comments and recommendations set forth within the Engineering Review Letters, incorporated by reference as if fully set forth at length herein. To the extent the Applicant and the Board Professionals and/or Township officials cannot resolve any of the aforementioned comments and recommendations, the Applicant shall return to the Board for a public hearing to resolve the outstanding conditions.
6. The Applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or file a written protest with Township Committee and appropriate Township officials within seven (7) days of receipt of a final voucher from the Township.
7. These conditions of approval, if any, shall be binding upon the Applicant, the owner, developer, and any successors and/or assigns of them.
8. The Applicant shall obtain approval from any other county, state or municipal agency having jurisdiction over the application, including, but not limited to, the Camden County Board of Health, the Camden County Planning Board, Camden County Soil Conservation District, New Jersey Department of Transportation, and the Pinelands Commission.
9. The Applicant have submitted certain plans and documents which were accepted by the Board as part of its application and further made certain representations and provided testimony at the time of the public hearing, all of which has been relied upon by the Board in making its determination. Should there be any material deviation from said documents, plans, representations or testimony or from any conditions contained herein, then the Board may, upon notice to the Applicants and an opportunity to be heard, elect to rescind its approval.
10. Any improvement(s) to be constructed as a result of the Board approving this application shall be constructed and operated in full compliance with the Uniform Construction Code,

Code of Waterford Township, the Revised Statutes of the State of New Jersey and any other applicable state, county and/or federal law.

11. The Applicant/owner is responsible for obtaining all Planning and/or building permits and approvals necessary to construct the project/development and the various improvements.
12. The Applicant's variance relief, if any, will expire eighteen (18) months after the Applicants obtain their last approval from any other county, state, or municipal agency having jurisdiction over the application, if the Applicants do not begin construction on the primary structure.
13. The Applicant shall record this resolution with the Camden County Clerk.

BE IT FINALLY RESOLVED that certified copies of this Resolution of memorialization be sent, via regular mail, to the Applicants within ten (10) days of the date of adoption, and a copy of this resolution shall be filed with the Administrative Officer or Clerk of the Township, Township Construction Official and Zoning Officer. A brief notice of this decision shall be published in the official newspaper of the Township.

Attest:

DEB SIMONE, BOARD SECRETARY

KEN MAURIELLO, CHAIRMAN

CERTIFICATION

I HEREBY CERTIFY that the Planning Board of the Township of Waterford, County of Camden, State of New Jersey adopted the foregoing Resolution at its meeting held in the Municipal Building, 2131 Auburn Avenue, Atco, New Jersey, February 1, 2021, and said Resolution was authorized for memorialization at a meeting held on February 17, 2021.

DEB SIMONE, BOARD SECRETARY