

**North Hanover Township
Joint Land Use Board
MEETING MINUTES
October 27, 2021**

7:30 p.m. @ Municipal Complex

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Call to Order

Chairman Tom Kimball called the meeting to order at 7:30pm

Flag Salute

Statement – Provisions of the Open Public Meetings Act

“The provisions of the Open Public Meetings Act have been met. Notice of this meeting has been transmitted to the Burlington County Times and the Courier Post, given to those having requested and paying for the same and posted on the bulletin board in the foyer of the Municipal Building “

Roll Call For Attendance

In Attendance: Russ Comisky, Jim Durr, Joe Greene, Wayne Voorhees, Greg Grauer, Tom Kimball

Absent: Ron DeBaecke, Debbie Kucowski, Brendan O’Donnell, Patricia Mellor, Jack Smylie

Memorialization of Resolution 2021- 14- Bulk Variances- Andrew DePaulis- Block 102 Lot 1- Orr Road

Greg Grauer made a motion to memorialize Resolution 2021-14. Motion Seconded by Tom Kimball. Wayne Voorhees abstained from the vote. All others in attendance in favor.

NORTH HANOVER TOWNSHIP
JOINT LAND USE BOARD
RESOLUTION 2021 - 14

RESOLUTION GRANTING
BULK VARIANCE RELIEF FOR ANDREW DePAULIS
BLOCK 102, LOT 1

WHEREAS, Andrew DePaulis, (the Applicant), has applied to the North Hanover Township Joint Land Use Board (the Board) seeking certain bulk variance relief with respect to the property commonly known as Lot 1 in Block 102, as shown on the official tax maps of North Hanover Township; and

WHEREAS, the property is located on Orr Road near its intersection with Ellisdale-Crosswicks Road along the Township Line; and

WHEREAS, the property is currently wooded and is located within the R-A Residential-Agricultural Zoning District of the Municipality; and

WHEREAS, the Applicant proposes to construct a 1,400 square foot residential structure and a 720 square foot detached garage structure with a driveway and septic system on the subject lot; and

WHEREAS, the property is currently undersized and has the following existing non-conforming conditions:

1. Lot Area – 2.0 acres required; 455 acres existing
2. Lot Width – 200 feet required; 197.72 feet existing
3. Lot Depth – 200 feet required; 47.55 feet existing

WHEREAS, this matter was heard before the North Hanover Township Joint Land Use Board on September 22, 2021. At the time of said hearing, the Applicant, Andrew DePaulis, testified under oath that it was his intention to construct a 2800 square foot residential structure on the subject property, consisting of two stories of 1,400 square feet each and a proposed 720 square foot detached garage; and

WHEREAS, as presented, the Applicant required the additional bulk variance relief:

1. Front Yard Setback – 50 feet required; 25 feet proposed
2. Rear Yard Setback – 75 feet required; 21 feet proposed
3. Max. Accessory Bldg. Coverage – 3% maximum permitted; 3.63% proposed

WHEREAS, with respect to the pre-existing non-conforming conditions, the Board notes that it is appropriate to grant variance relief with respect to same as the lot is a lot of record, testimony was provided by an Objector, Ellen Hamilton, who advises that she does not wish to purchase the Applicant's property in order to alleviate the variance conditions as they currently exist; and

WHEREAS, Ms. Hamilton indicates that the portion of her lot, which is located in North Hanover Township, Lot 1.01 is also undersized, consisting of .3 acres, only slightly larger than the property owned by this Applicant; and

WHEREAS, in addition thereto, the testimony reveals that Ms. Hamilton is not desirous of conveying any portion of her lot located in North Hanover Township to the Applicant since that would render her remaining lot undersized; and

WHEREAS, the Applicant, based upon the testimony and comments provided during the testimony advised, that he was agreeable to moving the house and garage back an additional five (5) feet on the front, which would result in a 30-foot front yard setback while simultaneously increasing the rear yard setback; and

WHEREAS, the Board finds this alternative to be more attractive based upon the existing conditions located to the rear and more in keeping with the frontage of similar properties on the North Hanover Township side of the Township line; and

WHEREAS, the Board further notes that with respect to the detached garage, the variance relief with respect to maximum building coverage would not apply if the garage was attached to the residential structure since the condition is related to maximum accessory building coverage, not overall lot coverage; and

WHEREAS, the Board discussed a number of conditions which would apply to any approvals granted herein as follows:

1. The Applicant shall comply with all terms and conditions set forth in the review letter of the Board's consulting engineer, dated September 8, 2021, which report is incorporated herein by reference.
2. The Applicant shall obtain septic approval with the Burlington County Health Department.
3. The Applicant shall ensure that the height of the garage shall not exceed 16 feet in accordance with the definition of the Township's Ordinances.

WHEREAS, based upon the testimony submitted, both the accessory structure and the residential dwelling shall be located at least 30 feet back from the front yard setback line; and

WHEREAS, by limiting the height of the accessory structure to 16 feet, the side yard setbacks shall not be encroached upon; and

WHEREAS, in support of her objections, the Objector, Ms. Hamilton, submitted into evidence Exhibit O-1, Declaration of Restrictions, dated May 26, 2016; O-2, a Deed for the subject property and a 200-acre parcel located in Chesterfield Township, dated April 28, 2018; and O-3 tax map showing the subject property and surrounding properties; and

WHEREAS, the Objector further submitted the testimony of James Miller, a Professional Planner in the State of New Jersey, who was qualified and accepted by the Board as an expert witness in this matter; and WHEREAS, the Applicant's Planning Expert, Mr. Miller, opined that the Applicant does not meet the requirements with respect to a hardship under a C-1 criteria nor is it a better zoning alternative under the C-2 criteria of the statute; and

WHEREAS, substantial testimony related to the ability of the Applicant to obtain property from an adjoining lot located in Chesterfield Township and the Board noting same has been identified as preserved farmland and as a result, is Deed restricted from further subdivision for purposes of residential development; and

WHEREAS, based upon the testimony submitted, the Board is satisfied the Applicant has submitted sufficient evidence to establish a hardship in view of the irregular triangular shape of the subject parcel, which is an

existing lot of record, the requirements for a septic system to meet Board of Health regulations, and while the property would include a two-story home and detached garage, the actual footprint of the home would be 1,400 square feet, which is an appropriate sized footprint for the lot in question; and

WHEREAS, the Board finds that the Applicant has further met the criteria under the C-2 provisions of the statute in that the purposes of zoning are advanced through the granting of the relief requested, including subsections (a), (c), (d), (e) and (g); and

WHEREAS, said purposes are advanced since the plan presented guides the appropriate use or development of an otherwise undersized vacant lot while simultaneously protecting the public health, safety or general welfare. The plan as presented provides adequate light, air and open space in that the existing undersized lot will not take property from other lots which would be further undersized if said lands were attached to the subject property within North Hanover Township, while the preserved farmland located to the rear should be protected from being included within a residential lot; and

WHEREAS, the Board further finds that it is appropriate to grant the relief with respect to the residential dwelling as presented on the undersized lot as same advances the general welfare of the neighboring municipality, which a preserved farm to remain in its existing condition without further subdividing same even if it could legally be done; and

WHEREAS, the Board finds that the plan as presented provides for appropriate population, densities and concentrations since it provides an untouched 200-acre parcel of farmland preservation property to the rear, while concentrating development in the residential zone of North Hanover Township; and

WHEREAS, the Board further finds that in maintaining the preserved farmland to the rear and limiting the residential property to the existing lot of record in North Hanover Township, sufficient space is provided in appropriate locations for a variety of these two types of uses where they benefit each other since the rear yard setback would adjoin preserved farmland as opposed to any other type of development; and

WHEREAS, the Board further finds for the reasons set forth above that there is no negative impact upon the Township Zoning Plan or neighborhood scheme as the lot in question is zoned for residential use, adjoins other residential uses in North Hanover Township and abuts preserved farmland in an adjoining municipality where the rear yard variance relief is being granted; and

WHEREAS, the benefits of the deviation clearly outweigh any detriments based upon the existing nature, conditions at and near the subject site; and

WHEREAS, despite the intentions of the Objector to opine that the hardship in question is self-created, the Board notes that the adjoining property is not owned by this Applicant and the adjoining property owner has no legal obligation to convey additional property to the Applicant, particularly since same is preserved farmland located in another municipality; and

WHEREAS, the Board finds there is no negative impact from the granting of the relief requested as the property is in fact zoned for residential use, the lot in question is currently existing and it is appropriate to place a residential structure on the subject property; and

WHEREAS, the Board notes that while the setback variance is required to the rear, there is no negative impact from the rear yard setback since the property to the rear is preserved farmland and will not impact upon any other residential or commercial property owners; and

WHEREAS, with the Applicant's agreement to move the house and detached garage back an additional five (5) feet to establish a 30-foot front yard setback for both, the Board is amenable to granting the relief requested based upon the conditions imposed herein; and

WHEREAS, it appears that all requisite fees and taxes have been paid in full to date; and
NOW THEREFORE BE IT RESOLVED on this 22nd day of September, 2021, that the Applicant's request for Bulk Variance Relief be and hereby is approved subject to the Applicant complying to all terms and conditions set forth in the preamble of this Resolution; and

IN SO APPROVING the Applicant's request for bulk variance relief, the Land Use Board of the Township of North Hanover has made the following findings of fact and conclusions of law and further declares:

1. The Applicant has a proprietary interest in this application.
2. All requisite fees and real estate property taxes have been paid in full to date.
3. The Applicant has complied with all notification requirements of the municipal land use ordinance of the Township of North Hanover.

4. The application is a “complete application” as defined by the municipal land use ordinance of the Township of North Hanover.
 5. The application is a substantial compliance with the zone plan and will not unduly impact upon the neighborhood scheme.
 6. The Land Use Board adopts the preamble of this Resolution as its findings of facts and has relied upon these findings in the decision rendered by the Board.
 7. The Applicant has submitted sufficient reasons to grant the requested relief herein.
- BE IT FURTHER RESOLVED that this approval is further conditioned upon the following:

1. The receipt by the Applicant of all approvals and compliance with all permit conditions from any Federal, State, County or local regulatory agency having jurisdiction over this application. Upon receipt of such approvals, the Applicant shall provide a copy of any permit or written evidence of approval to the Board and its professional staff. If any agency requires a change in the plans approved by the Board, the Applicant must reapply to the Board for approval of that change.
2. The Applicant shall provide a statement from the North Hanover Township Tax Collector that all taxes are paid in full as of the date of this resolution and as of the date of the fulfillment of any conditions in this resolution and the failure to provide such a statement shall render this resolution null and void ab initio.
3. The Applicant shall reimburse the Board for all professional fees extended or expended with regard to this application.
4. The Applicant shall comply with all provisions of the reports of the Board’s professional engineer and planner except as modified herein.
5. The Applicant shall comply with all representations made before the Board by its attorney, engineer and other expert witnesses as the Board has specifically relied upon those representations in granting the approvals set forth herein. Failure to comply with such representations will render any approvals herein null and void ab initio.
6. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the Applicant.
7. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.
8. Unless specifically modified herein, the Applicant shall comply with all terms and conditions of all prior resolutions of the North Hanover Township Planning Board regarding this application.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the following:

1. Burlington County Board of Health
2. Burlington County Planning Board
3. North Hanover Township Joint Land Use Board;
4. Township Clerk; and
5. Zoning Officer.

DATE ADOPTED: September 22, 2021

DATE MEMORIALIZED: October 27, 2021

FOR ADOPTION: Jim Durr, Debbie Kucowski, Jack Smylie, Greg Grauer, Tom Kimball

AGAINST: Russ Comisky, Ron DeBaecke, Joe Greene, Brendan O’Donnell

ABSTENTIONS/RECUSALS:

Public Comment

Chairman Tom Kimball opened the floor to public comment. Being no public in attendance to comment. Greg Grauer mad a motion to close public comment. Motion was seconded by Tom Kimball. All in favor.

Board Discussion

Chairman Tom Kimball opened the floor to board discussion. Being no board discussion. Tom Kimball made a motion to close board discussion. Greg Grauer seconded. All in favor.

Correspondence-NONE

Adjournment

Tom Kimball made a motion to adjourn. Greg Grauer seconded the motion. All in favor. Meeting adjourned at 7:32pm.

Respectfully submitted by:
Alexandra DeGood
Board Secretary