

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Elaine Valentino, presiding. Members present were Wayne Choyce, William Christman, George Samuelson, Bruce Strigh, & alternate members Joseph Leyenaar and Debra Kraus. Also present was the Board Solicitor, Robert Cooper, Phil Sartorio, Zoning Officer and Robert Watkins, Planner.

The Statement of Compliance was read.

**Announcements:** Item #7 will be heard first (MarieElena Ferraro).

**MarieElena Ferraro; App. #17-14; Block 694 lot 2;** located at 6201 Lance Avenue was present and is seeking a variance to construct an addition to the front of the existing single family dwelling and any other variances found to be necessary.

Solicitor, Robert Cooper verified that the proof package had been executed properly.

Ms. Ferraro was sworn in and testified she would like to put an addition on her house. The house was her parents & recently changed it to her name. New siding was added about 9 years ago & the proposed addition will consist of 2 bedrooms and 1 bathroom. The entrance will remain the same.

Mr. Alfredo Ferraro was sworn in and testified the additional will be 16' along Lance Avenue, 18' along Reading Avenue & 23 feet across the front.

The house currently has 3 bedrooms & will remain as a single family home. Her grandchildren will be living there. The shed that is closest to Reading Avenue will be removed.

Mr. Choyce asked what the setback will be from Reading Avenue.

Mr. Sartorio was sworn in and answered that the setback will be 11 feet from Reading Avenue and 25 feet from Lance Avenue.

Ms. Ferraro stated her grandchildren will be moving in with her.

Ms. Kraus & Ms. Valentino visited the property. Ms. Valentino was commented the proposed addition will not hinder any sight triangles of surrounding properties. Ms. Kraus noted when the shed is removed there will not be any problems with setbacks.

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Mr. Strigh on App. #17-14, Block 694 Lot 2 located at 6201 Lance Avenue to grant a front yard setback of 11 feet on the Reading Avenue side; 25 feet on the Lance Avenue side and the removal of the shed located on the Reading Avenue frontage. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE  
MR. STRIGH-AYE  
MS. VALENTINO-AYE

MR. CHRISTMAN- AYE  
MR. LEYENAR-AYE

MR. SAMUELSEN-AYE  
MS. KRAUS-AYE

SAID MOTION CARRIED.

**NOTE:** The following Board Members made comments

**MR. CHOYCE:** Hearing testimony from the applicant, understanding the need of the addition for family members & other Board members who saw the site I vote yes.

MR. CHRISTMAN: Yes.

MR. SAMUELSEN: Yes.

MR. STRIGH: Yes for the previously stated reasons.

MR. LEYENAAR: Yes.

MS.KRAUS: Yes.

MS. VALENTINO: Yes. I visited the property & noted it is in excellent condition. The reasoning behind the intention & that it will remain a single family home along with the removal of the shed are reasons for my vote.

Ms. Zimmerman joined the meeting at 7:17 pm.

**Bithika Bhowmik; App. #14-14; Block 496 Lot 11;** located at 6961 Harding Highway was present along with his attorney, Michael Learn . A variance for a change made to the roofline on the back of the dwelling, changing it from 2.5 stories to 3 stories, is being requested. This is a continuation from the September 22, 2014 meeting. This is also a Use Variance for the expansion of a non-conforming lot.

Solicitor, Robert Cooper verified that the proof package had been executed properly.

Ms. Kraus recused herself.

Mr. Cooper confirmed that Mr. Samuelson listened to the recording of the last meeting & signed the certification.

The following witnesses were sworn in:

Rami Nassar, Witness  
Biithika Bhowmik, Applicant  
Robert Watkins, Planner

Mr. Learn stated the property is a preexisting home in the Agricultural Zone. The applicant purchased the home in 2005 & has used it as a single family dwelling. The property is 4+ acres & the house has been there since the 1950s. The owners did a roof repair & also raised the pitch.

Prior to the roof repair there were 7 bedrooms & 3 bathrooms, located on the 1<sup>st</sup> floor.

Mr. Nassar gave testimony regarding the surrounding structures. They consist of a church, houses & furniture store. A paper street is also near the property. The surrounding houses were built in the 1950s. The “con” of this application is the roof being modified & 2 bedrooms being added which will bring it up to code. A cesspool is there now & it will be updated to a septic system.

The following photos were introduced as exhibits:

A1: West side of house  
A2: Aerial photo  
A3: East side of house  
A4: Front of house (Harding Highway)  
A5: Interior stairway to 3<sup>rd</sup> floor going up  
A6: Interior stairway to 3<sup>rd</sup> floor going down  
A7: Interior photo of 3<sup>rd</sup> floor landing  
A8: Interior photo of 3<sup>rd</sup> floor  
A9: Interior photo of 3<sup>rd</sup> floor construction area & existing flooring  
A10: Interiors photo of 3<sup>rd</sup> floor  
A11: Interior photo of 3<sup>rd</sup> floor

The A1 photo was taken August 9, 2014 & shows the modification of the roof line. The dormers were taken out & the roof was raised. The A3 photo shows the same. The renovations cannot be seen from the front of the house. The house is setback 110 feet from Harding Highway & property line 95 feet.

Ms. Valentino asked about the other buildings on the property.

The use variances are for the enlargement of the property (7 to 9 bedrooms) & the adding the 3<sup>rd</sup> story with bedrooms.

Mr. Watkins stated the lot is undersized for the zone. The septic will be updated if approved.

If the application is denied then the septic has to be repaired. If it's approved, then a new septic system will be constructed.

Ms. Bhowmick testified her address is 87 Adams Street, Northfield, NJ. The property was purchased in 2005 from the bank. She does not know what the use was prior to 2005. It has been rented as a single family house & filed the necessary papers with the township. Prior to 2011 she was registered as a rental unit with the clerk's office & tenants lived there since 2005.

Exhibit A12: Rental license from 2013

The property was vacated by tenants since the beginning of the year. It will be used as a single family house (rental or personal). She is willing to upgrade the septic system & agree to any conditions the board may ask.

The photos that were introduced as exhibits were taken by her.

The 3<sup>rd</sup> floor flooring is being repaired due to the water damage.

The applicant confirmed the drawing done by Ms. Valentino of the interior of the house is correct.

Exhibit B1: Sketch of interior of house

The house has 1 bedroom on the 1<sup>st</sup> floor, 4 on the 2<sup>nd</sup> & 4 on the 3<sup>rd</sup>.

She testified the other buildings on the property are used for storage. Mr. Choyce asked about the structure behind the house & what the use will be. The applicant stated it is for storage & will not be used for living space. No other out buildings will be used for occupancy only for storage purposes.

The applicant stated there were 7 bedrooms & 3.5 bathrooms when they purchased it. Now there are 9 bedrooms. A window existed on the 3<sup>rd</sup> floor.

Discussion ensued regarding construction issues.

If the property is tenant occupied there are more offices looking at the property than if it was owner occupied.

Mr. Leyenaar visited the property & noted the owner showed him the 3<sup>rd</sup> floor.

Mr. Samuelsen visited the property & stated he walked the property & in his opinion the back structure looked like a modified pool house but without the pool.

Mr. Strigh also visited the property & observed the out buildings.

Mr. Nassar gave a reason of making the property more desirable as a special reason to allow the use variance. Only 1 reason is needed. If this application is approved, the septic will be improved & the structure up to code.

Mr. Learn stated the benefits of this application are that it has to be brought up to code & that home will be a better use in that neighborhood. His client agreed that this property will not be sublet.

Discussion ensued about what the prior use may have been.

Ms. Valentino asked if anyone would like to speak for public comment. Ms. Debra Kraus was sworn in and stated they have owned the property for 9 years and the driveway is small. She stated the Tax Assessors office has this as a 3 bedroom 1 bathroom. They also had a tax appeal. Ms. Kraus asked if that appeal was based on 3 bedrooms or 7 bedrooms.

Mr. Santos Bhowmick was sworn in and stated their attorney did the appeal.

Ms. Zimmerman asked why they filed an appeal & he stated for a reduction in taxes. She would like the applicant to let the Tax Assessor know the correct amount of bedrooms & bathrooms.

Ms. Kraus also asked about the rental license & if the tenant left. The applicant answered the tenants were evicted for nonpayment of rent the beginning of 2014.

Mr. Cooper stated that Ms. Kraus is a member of the Zoning Board and has a right to speak regarding this application but her position should not be used to elevate the status beyond what is normal member of the public in this application.

Mr. Choyce moved, seconded by Ms. Zimmerman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Ms. Zimmerman moved, seconded by Mr. Christman on App. #14-14, Block 496 Lot 11 located at 6961 Harding Highway to grant two (2) D variances: 1).Permit the enlargement of a non-confirming use by adding 2 additional rooms. 2) To permit the 3rd floor in the dwelling. There will be no sub tenants & the out building are to be used for storage purposes only. The owner must report to the Tax Assessor how many bedrooms and bathrooms are in the house. The property must contain 5 parking spaces (non-stacked off street). SAID MOTION CARRIED WITH SEVEN(7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and ONE (1) "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE

MR. CHRISTMAN- AYE

MR. SAMUELSEN-AYE

MR. STRIGH-AYE

MS. ZIMMERMAN-AYE

MR. LEYENAAR-AYE

MS. VALENTINO-AYE

SAID MOTION CARRIED.

**NOTE:** The following Board Members made comments

**MR. CHOYCE:** I had a hard time throughout these hearings about what the variances are. For this to be a single family home in an Agricultural Zone with no Agricultural Use I see no negative impact to grant that request based on the neighborhood that exists. When it comes to making this a 3<sup>rd</sup> story I don't see a negative impact to the zoning & master plan. You can't see from the front of the house that the roof has been raised. The conditions made & the septic being addressed are positive for the motion. Based on those facts, I vote yes.

**MR. CHRISTMAN:** Yes. I am along the same opinion that Mr. Choyce gave.

**MR. SAMUELSEN:** After my site visit & testimony from the professionals, my questions have been answered. The roof line change cannot be seen from the road & now it looks like a farmhouse. I vote yes.

**MR. STRIGH:** With extreme & deep concern, I vote yes.

**MS. ZIMMERMAN:** I agree with my fellow board members that this was a difficult situation. I am not fond of applicants coming in after the fact. I agree with Mr. Choyce's statements & don't believe this has a negative impact. There was sufficient evidence that this was a single family residence. If there are tenants residing at the house there will be a requirement for more updating & safety measures which will be a benefit. The conditions that were added to the variance & application will be positive. I vote yes.

**MR. LEYENAAR:** Yes.

**MS. VALENTINO:** Yes. I would like to thank the members of the board who visited the property. I also thank the applicant & counsel for letting us do that. The inspection of the property was serious enough to make the recommendations for the conditions that were presented. The surrounding properties are similar in nature. The seriousness of the application & of the board reviewing it will make the property better.

Ms. Zimmerman moved, seconded by Mr. Samuelsen on App. #14-14, Block 496 Lot 11 located at 6961 Harding Highway to grant The C variances which are as follows: 1). Lot are variance to allow 4.731 acres 2). To allow frontage of 277.29 plus or minus 1 foot 3.) To allow a front yard setback of 94.5 feet where 200 feet is required 4). East side variance of 122.7 feet where 300 feet is required. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY," and "NO ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE  
MR. STRIGH-ABSTAIN  
MS. VALENTINO-AYE

MR. CHRISTMAN- AYE  
MR. LEYENAAR-AYE

MR. SAMUELSEN-AYE  
MS. ZIMMERMAN-AYE

SAID MOTION CARRIED.

**NOTE:** The following Board Members made comments

MR. CHOYCE: The variances being requested are existing non-conforming conditions that have existed on the property. The modification to the structure did not affect any of the modifications being performed on the structure. I vote yes.

MR. CHRISTMAN: Yes

MR. SAMUELSEN: Yes.

MR. STRIGH: Abstain.

MS. ZIMMERMAN: I agree with Mr. Choyce’s statements & vote yes.

MR. LEYENAAR: Yes.

MS. VALENTINO: Yes for the reasons previously stated.

Mr. Learn thanked the Board for reviewing the application.

**Approval of Minutes** – Mr. Strigh moved, seconded by Mr. Choyce to approve the minutes from the October 27, 2014 meeting as amended. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY,” and ONE (1) “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE  
MR. STRIGH-AYE  
MS. KRAUS-AYE

MR. CHRISTMAN-AYE  
MS. ZIMMERMAN-ABSTAIN  
MS. VALENTINO-AYE

MR. SAMUELSEN-AYE  
MR. LEYENAAR-AYE

SAID MOTION CARRIED.

**Memorialization of Resolution** – Mr. Choyce moved, seconded by Mr. Christman to adopt the resolution for Julie Forshaw-App. #16-2014; Block 18 Lot 8. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE  
MR. STRIGH-AYE  
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE  
MR. LEYENAAR-AYE

MR. SAMUELSEN-AYE  
MS. KRAUS-AYE

SAID MOTION CARRIED.

**Public Comment-** Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

**Executive Session-** There were no items to discuss.

The Secretary commented the RFP’s will be distributed at the December 8<sup>th</sup> meeting.

Comments were made by Board members regarding the last application & items that were brought up as part of the application.

**Adjournment** – Mr. Choyce moved, seconded by Mr. Christman to adjourn the Zoning Board of Adjustment meeting at 9:31 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary  
Zoning Board of Adjustment