

**MOORESTOWN TOWNSHIP ZONING BOARD OF ADJUSTMENT  
MEETING  
April 2, 2019**

**MEMBERS PRESENT:**

Richard Koory  
Doug Dillon  
Mark Williams  
Vincent D 'Antonio  
Joseph Maguire  
Lynne Gallo  
Georgette Castner, Alternate I  
Lynne Schill Alternate II

**STAFF PRESENT**

Peter Clifford, Board Secretary  
Peter Thorndike ESQ, Board Attorney  
Danielle Gsell, Recording Secretary

Absent: Walter Fazler (recused)

Mr. Maguire called the meeting to order in the Council Chambers at 7:32pm by reading the Open Public Meetings Act statement. A moment of silence was followed by the Pledge of Allegiance.

**RESOLUTIONS:**

NONE

**MINUTES:**

- None

**PUBLIC HEARING:**

- **ZBA#2017-28 PCCH Properties, LLC** **Block: 6204 Lots: 18, 20, 21**  
**Poplar Ave.** **Zone: R-3 Decision Due:**  
Bulk variance for 3 lots with non-conforming lot width  
Continued from February 26, 2019 Meeting

Mr. Hagerty, attorney for the objectors, introduced Mr. Wolfgang Skacel (106 Poplar Ave) who had previously testified to the Board and was still under oath. Mr. Hagerty presented a Power Point presentation of photos taken by the objectors (exhibit O-2) and asked Mr. Skacel to describe each photo as well as the relevance to the application being presented. Mr. Skacel asked a friend of his to use Photoshop to depict what they believed the house would look like from the backyard of Mr. Khanlian (444 E 2<sup>nd</sup> St.) with the testified height and width of the house to give the Board a better idea of what the neighbors would be looking at if the application was approved. Ms. Gallo asked Mr. Skacel what size his house was to get a better visual of what the proposed house might look like compared to the other houses in the neighborhood.

Mr. Matteo cross-examined Mr. Skacel asking him what scale was used when creating the Photoshop image, Mr. Skacel testified the image was created prior to receiving the architectural design presented to the Board and he was not sure what the scale was. He also was asked how he

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came up with the number of windows used in the images and testified that a house needed windows and there was no specific number chosen when creating the image.

Mr. Hagerty then introduced Mr. Muckelbauer (450 E 2<sup>nd</sup> St.) who had previously testified to the Board and was still under oath to provide the Board with information he compiled in a pricing index chart (Exhibit O-3) from Zillow.com and the County Tax Board Webpage from 1999 to 2019. Mr. Muckelbauer explained he was not a licensed Real Estate appraiser but was an Engineer in Lockheed Martin and he had found the information on the internet to compile this index for the presentation to the Board. Upon completion of the testimony from Mr. Muckelbauer the attorney for the applicant cross-examined him and reiterating the fact of Mr. Muckelbauer not being a licensed Real Estate appraiser and the information presented was found on the internet.

Mr. Matteo presented Mr. Carroll, MAI licensed Real Estate Appraiser, who had previously testified to the Board and was still under oath as a rebuttal the information provided by Mr. Muckelbauer. Mr. Carroll testified to the Board that he would not use the index just shown as a primary source for the appraisal on a property that he would instead use comparables in the area since they are a more reliable source of fair market value. When asked if Mr. Carroll took into account the price the Zoning Board of 1999 placed on the property when conducting his appraisal he testified he did not. Mr. Hagerty cross-examined this witness asking about the pricing index that he would use and how he would use comparables in the area to show the increase in the market pricing and inflation.

With no other questions from the Board or Council Mr. Hagerty provided his closing argument that the applicant has created his own hardship by purchasing a lot knowing there was limited use for it. He also reviewed the positive and negative criteria for the Bulk Variance the applicant was applying for. He stated the objectors were willing to now offer the applicant \$ 71,724.00 based on the index chart created by Mr. Muckelbauer and what believed the inflation of the land would now be worth.

Mr. Matteo provided his closing argument to the Board also stating the positive and negative criteria the applicant has been faced with during this application. He also stated the applicant has made many attempts to bring this lot into a conforming lot by purchasing some additional land but was denied the sale of the land to do so. If this application is not approved tonight the applicant will be seeking some kind of relief since it is creating a hardship on them.

Mr. Maguire closed the application for Board Deliberation. Mr. Thorndike read the instructions to the Board of what they would be deciding on and how the application would proceed should it be approved. Mr. Koory read the statement he wrote stating that he has requested the decision be made during the March 2019 ZBA meeting without hearing from the objectors since it was late in the night and he was tired, however he was wrong and now he had heard all the testimony from both the applicant and the objectors he would be able to make a better decision.

**BOARD COMMENTS/QUESTIONS:**

Mr. Koory stated he felt by not approving this application the Town was essentially condemning the lot and he feels if all attorneys could come to an agreement with setbacks and

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width the application should be approved. The Board discussed in length the width, setbacks, and side yard setbacks of the property and placing conditions on those in order to make the house more appealing to the neighborhood and easier to sell when the time came to do so. There was also lengthy discussion of what the Board felt would be the fair market value for the divesting of the property should that need to be something the applicant needed to do. Mr. D'Antonio suggested taking the 2 appraisals that had been completed and coming to a medium of \$ 151,250 for the land. There was then discussion about using the objectors appraisal and some Board members felt the value should be lower, however the compatible given on the objectors appraisal were in complete different neighborhood and some may have been in foreclosure so other Board Members felt the appraisal was not a valuable use. After much more discussion about the size and height of the proposed house to be built on the lot Mr. Koory made a motion to approve the application with the following conditions:

1. \$162,500 divesting value placed on the property
2. 30X55 with a 30ft setback for the house that was proposed for the property
3. Consolidate the 3 lots into one large lot
4. There will be a 60 day divesting period from resolution date being adopted for the purpose of purchasing the lots.

A motion to approve this Resolution with conditions being meant was made by Mr. Koory seconded by Mr. Maguire. The roll call vote of eligible Board Members was voted 6 to 1. Motion Carried.

- With no further business to discuss, Mr. Koory made a motion, seconded by Mr. Dillon to adjourn the meeting. The voice vote was unanimous in favor. The meeting was adjourned at 10:30pm