

RESOLUTION OF MEMORIALIZATION
WEST WINDSOR TOWNSHIP ZONING BOARD OF ADJUSTMENT

In the Matter of the Application
of Carolyn and Martin Sellars for
a "d" Use Variance and Bulk
Variances: Block 63, Lot 154 West
Windsor Township Tax Map.

Decision in File No. ZB02-06

Be it resolved by the Board of Adjustment of the Township of West Windsor (hereinafter referred to as "Board") that the action of this Board on June 6, 2002 in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

JURISDICTION:

1. The applicants, Carolyn and Martin Sellars, own an existing home at 969 Alexander Road. Their home is located in the Township's R-1A Residential Zoning District. They would like to expand their home by removing an existing wooden deck along the rear of their house and constructing a one story building addition and new deck at the same location. Due to existing conditions on the applicants' undersized lot, the following variances are required:
 - A. Section 200-170G requires 17% maximum improvement coverage in the R-1AS zone; the applicants are proposing 19%, a 1% decrease from the existing 20% coverage;
 - B. Section 200-170(1) requires 13% maximum FAR; the applicants are proposing 26%, an increase from the existing FAR of 23%;
 - C. All bulk requirements with the exception rear yard setback are preexisting non-conforming. No requirements, with the exception of FAR, will be intensified by the proposed residential addition.
 - (1) Section 200-170A requires 72,571 square feet of lot area in the R-1A zone; the preexisting and proposed lot area is 7,752 square feet.

- (2) Section 200-170B requires 85 feet of lot frontage in the R-1A zone; the preexisting and proposed lot frontage is 62.93 feet.
- (3) Section 200-170C requires 175 feet of lot width in the R-1A zone; the preexisting and proposed lot width is 63.24 feet.
- (4) Section 200-170D requires 175 feet of lot depth in the R-1A zone; the preexisting and proposed lot depth is 123.18 feet.
- (5) Section 200-170E(1) requires a 40 foot front yard setback in the R-1A zone; the preexisting and proposed front yard setback is 31.4 feet.
- (6) Section 200-170E(3) requires a 20 foot side yard setback in the R-1A zone; the preexisting and proposed side yard setback is 14.7 feet.

2. The subject matter of this application being within the jurisdiction of the Board, the Board accepted jurisdiction and considered and acted upon this application at its meeting held on June 6, 2002.

3. The property in question, as noted above, is located at 969 Alexander Road. The property is shown on the West Windsor Township Tax Map as Block 63, Lot 154.

THE APPLICANTS:

4. The applicants are the owners of the property which is the subject matter of this application.

NATURE OF APPLICATION AND RELIEF SOUGHT:

5. As noted herein above, due primarily to existing conditions on the applicants' undersized lot, a "d" use variance is needed for maximum improvement coverage and maximum floor area ratio and a series of bulk variances in order to accommodate the proposed addition to the applicants' home.

NOTICE AND PUBLICATION:

6. The applicants have submitted proof to the Board that notice has been served as required by law on the 200-foot property owners and published in a newspaper of general circulation in the Township. The notice and publication were found to be in order by the Board and jurisdiction accepted. The necessity for a stenographer for the "d" use variance was waived by the Board.

PLANS AND EXHIBITS PRESENTED:

7. At the hearing held on June 6, 2002, the Board reviewed the following applicants' plans, exhibits and reports:

- Exhibit Z-1: A series of nine (9) color photographs of neighboring properties.
- Exhibit Z-2: A series of two (2) color photographs of the rear view of the applicants' property.
- Exhibit Z-3: A series of three (3) color photographs of the applicants' existing home.
- Exhibit Z-4: A portion of the West Windsor Township Zoning Map including the area surrounding the applicants' property.
- Exhibit Z-5: A chart prepared by the applicants' architect, Robert M. Fania, R.A., depicting homes surrounding the applicants' property and noting thereon existing maximum improvement coverage percentage and floor area ratio percentage for said homes.
- Exhibit Z-6: A plan entitled "Renovations and Additions to the Sellars' Residence, 969 Alexander Road, Princeton Junction, New Jersey 08550" prepared by RMF Architect by Robert M. Fania, R.A. dated March 12, 2002, revised through April 12, 2002.
- Exhibit Z-7: Architectural plans entitled "Renovations/Additions to the Sellars' Residence, 969 Alexander Road, Princeton Junction, New Jersey 08550: Sheet A-1.

Floor 1 Plan; Exterior Elevations" prepared by RFM Architect by Robert M. Fania, R.A. dated March 12, 2002, revised through April 12, 2002.

STAFF REPORTS:

8. At the above-referenced hearing, the Board reviewed and considered the following submitted by the Township staff:

- A. John Madden & Associates planning report dated May 14, 2002.
- B. Mason, Griffin & Pierson, P.C. legal report dated May 29, 2002.

SUMMARY OF TESTIMONY:

9. The applicants represented themselves before the Board. Their architect, Robert M. Fania, R.A., reviewed with the Board the site plan detail (Exhibit Z-6) and the architectural plans, including renderings (see Exhibit Z-7), for the applicants' proposed addition to the rear of their home. Mr. Fania indicated that the applicants proposed removing an existing deck and replacing that deck with a new den and deck in a one story addition to the rear of their property. A new vestibule will also be added. The front of the applicants' Dutch Colonial style home will remain unchanged. The addition, if approved, would add 255± square feet of living space for the applicants' family. The applicants propose using the same exterior material for the addition so that the addition will blend into the existing home. Mr. Fania noted that the applicants' lot is extremely undersized for the R-1A zoning regulations. The applicants' lot consists of 7,752± square feet. The minimum lot area in the R-1A zone is 72,600 square feet. Consequently, any addition to the applicants' home will require maximum improvement coverage (MIC%) and floor area ratio (FAR %) variances. Additionally, the bulk variances noted in paragraph 1 herein above will also be needed due to the preexisting undersized condition of the lot.

Mr. Fania is of the professional opinion that the addition to the applicants' home will enhance the applicants' property and benefit the neighborhood. He reviewed with the Board a series of photographs of the surrounding properties (see Exhibit Z-1, Z-2 and Z-3). He also did a study of other properties in the neighborhood noting the average MIC and FAR percentages (see Exhibit Z-5). By referring to this exhibit and a portion of the West Windsor Township Zoning Map also showing

surrounding properties (see Exhibit Z-4), Mr. Fania testified that there are a number of homes in the applicants' neighborhood which exceed the permitted MIC and FAR percentages. Based upon his study, the range of FAR percentages in the neighborhood not withstanding the ordinance standard of 13% is 19% to 25%. The applicants propose an FAR of 26%. The applicants' existing FAR is 23%. Mr. Fania made a similar observation with regard to the maximum improvement coverage. Whereas 17% is permitted, a number of the surrounding homes have greater MIC percentage coverage. The applicants' current MIC is 20%. By removing the applicants' existing deck and a portion of a concrete slab to the rear of the property, the applicants' MIC would actually be reduced to 19%.

The applicant, Carolyn Sellars, indicated that the purpose of expanding their home was to permit the family to remain in their neighborhood commonly referred to as Berrien City. She is home schooling a child and needs additional area for that purpose and also to accommodate her involvement with the Girl Scout program. She was also of the opinion that the addition will improve the appearance of their home.

West Windsor Township Planner, John Madden, P.P., A.I.C.P., then testified and reviewed his report dated May 14, 2002. Mr. Madden noted that most of the homes in the Berrien City area of the Township were older homes on undersized lots. He believed that the Board should support a policy to encourage owners of those homes to update and upgrade their properties. He was of the opinion that the addition to the applicants' home was architecturally attractive. By adding the proposed den, vestibule and new deck, he did not believe that the size of the applicants' home would be out of character for the neighborhood.

West Windsor Township Consulting Engineer, James E. Ruddiman, P.E., then testified. He was also of the opinion that the increase in the FAR percentage was not significant. He did note that the MIC percentage was actually being reduced.

Susan Abbey, Scott Avenue, then testified. She is president of the neighborhood association wherein the applicants' property is located. She spoke in support of the application. She felt that the addition was tastefully designed and paid great attention to the historic aspects of the applicants' home and the surrounding properties.

Charles Morgan, Birchwood Court, then testified in favor of the application. He noted the uniqueness of the Berrien City neighborhood and was of the opinion that the Board should support improvements to the homes in this area of the Township.

STATUTORY STANDARDS:

10. The following statutory standards must be met by the applicants before the Board can grant "d" use variances and bulk variances:

- A. In particular cases and for special reasons, the Board may grant a variance to allow departure from the regulations in the West Windsor Township Zoning Ordinance so as to permit an increase in the floor area ratio or maximum improvement coverage ratio. A variance for this type of relief can only be granted by an affirmative vote of at least five (5) members of the Board. The Board must be satisfied that based upon unique characteristics of a specific piece of property, the applicants cannot practically comply with the current zoning regulations due to a preexisting, non-conforming, undersized lot. The Board also must be satisfied that the negative criteria can be achieved. In this respect, the Board must find that approving an addition as requested by the applicants will not substantially impair the zone plan in the Berrien City area of the Township nor negatively impact in a substantial way on any of the surrounding properties.
- B. Concerning the bulk variances due to the undersized nature of the applicants' lot, the Board may grant the relief requested if the Board is satisfied that by reason of the undersized nature of the applicants' property, the strict application of the current zoning regulations under the R-1A zone would result in particular and exceptional practical difficulties to the applicant to improve their property. Also, as noted above, the Board must be satisfied that by permitting the addition to the rear of the applicants' property, there will be no substantial negative impact on any of the adjacent properties nor the zone plan for the neighborhood.

FINDINGS AND CONCLUSIONS:

11. For the reasons set forth herein below and subject to the conditions as forth herein below, the Board unanimously (6 - 0) voted to grant to the applicants the "d" variance for maximum floor area ratio and maximum improvement coverage as outlined in paragraph 1 as well as the bulk variances in order to permit the applicants to improve the applicants' home with the addition as outlined herein above. The Board approved this application for the following reasons, subject to the following

- B. A. The Board is persuaded that the applicants have designed and will construct a tasteful and appropriately sized addition to their existing single family home in the Berrien City section of the Township. The applicants' home

with the addition will fit in well with the other existing homes in the neighborhood. The Board notes that the applicants are actually reducing the non-conformity of its lot in terms of maximum improvement coverage. The Board is also satisfied that there is substantial existing landscape buffering on either side of the proposed addition so that there will be no negative impact on any of the neighboring properties. By permitting the applicants' to improve their home with this addition, the Board is of the opinion that granting the above-referenced variances for the applicants' undersized lot will achieve an objective of the Township's zoning regulations: to encourage the improvement of existing homes in the Township and the strengthening of the neighborhoods wherein the homes are located.

B. This approval is granted, however, subject to the following conditions:

- A. The applicants shall utilize materials on the applicants' addition which will blend in and match the existing exterior of the applicants' home.
- B. Pursuant to Section 22-10.5.9, all real property taxes and other municipal assessments and charges due and owing with regard to the applicants' property shall be paid on a current basis as of the date of publication of notice of this decision.
- C. Pursuant to Section 20-4, all escrow fees and deposits, including application fees and inspection fees as may be necessary shall be paid by the applicants as of the date of publication of notice of this decision.
- D. Pursuant to Section 22-10.4.4, the use variance authorized herein above shall expire unless construction or alternations shall have actually commenced on the applicants' home within one (1) year from date of publication of notice of this decision. Upon the showing of good cause made by the applicants, this time limitation may be extended upon application to the Board with notice as required by the initial variance application, provided, that said application is made prior to the expiration of the one (1) year time frame referenced herein above.

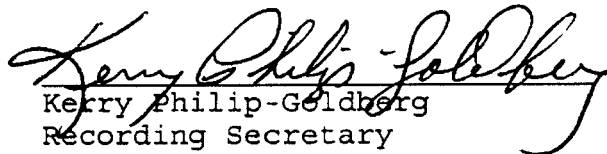
CONCLUSION

Based upon the foregoing findings and for the reasons set forth herein above and subject to the conditions set forth herein above, the Board at its meeting on June 6, 2002 voted unanimously to grant to the

applicants the above-referenced use variance and bulk variances in order to facilitate the construction of the improvements to the applicants' home. This Resolution of Memorialization was adopted on July 11, 2002. The date of decision, however, shall be June 6, 2002, except for purposes of (1) mailing a copy of the decision to the applicants within ten (10) days of the date of decision; (2) filing a copy of the decision with the administrative officer; and (3) publishing a notice of this decision.

CERTIFICATION

I, Kerry Philip-Goldberg, Recording Secretary of the West Windsor Township Zoning Board of Adjustment, do hereby certify that the above Resolution was adopted by said Board at its regular meeting held on the 11th day of July, 2002.


Kerry Philip-Goldberg
Recording Secretary
West Windsor Township Zoning
Board of Adjustment