

**Draft**  
**MINUTES OF**  
**PLANNING BOARD/BOARD OF ADJUSTMENT**  
**OF HIGH BRIDGE BOROUGH**

**Meeting Date:** July 19, 2021 – 7:30 p.m.

**Meeting Location:** High Bridge Rescue Squad, 95 West Main Street, High Bridge, NJ 08829

**1. CALL TO ORDER:**

This is a regular meeting of the Planning/Zoning Board of the Borough of High Bridge. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in the Hunterdon Democrat and the Express Times on June 3, 2021, and the notice of and agenda for this meeting was posted on the bulletin board in the Borough Hall, and the meeting link was posted on the High Bridge Borough website. Board Members, Board Professionals, applicants, and professionals for applicant's are required to have camera capability for virtual meetings.

**2. FLAG SALUTE:** Led by presiding officer.

**3. ROLL CALL:**

Coleen Conroy, present	Pablo Delgado, absent	William Giordano, present
Joseph Suozzo, present	John Musnuff, absent	Tom Wescoe, absent
Natalie Ferry, present	Steven Dhein, present	Michele Lee, present

Also, present were Attorney Todaro, Planning Board Secretary, Barbara Kinsky, Board Engineer Kevin Nollstadt, Board Alternates Benjamin Yu and Alan Mart, three members of the public and press. Board Alternates Benjamin Yu and Alan Mart sat in on the Board to fill in for absent members.

**4. PUBLIC COMMENTS:** It is the policy of the Planning Board/Board of Adjustment that all public comments on an issue shall be limited to five (5) minutes per person and no person may make more than one (1) comment per subject. Comments may be made on any subject pertaining to Board issues. Comments pertaining to Public Hearings should be saved for that section of the agenda. No debating between residents. Comments should be addressed to the Chairman and Board members at the public microphone. NONE

**5. READING AND APPROVAL OF MINUTES:** May 24, 2021

Motion to dispense with the reading of the prior meeting's minutes:  
Motion/ Second: Giordano/Ferry Voice vote: 8 yes votes, Motion passed.

Motion to approve the May 24, 2021, meeting's minutes.  
Motion/Second: Souzzo/Ferry  
Conroy, yes; Delgado, absent; Giordano, yes; Suozzo, yes; Musnuff, absent; Wescoe, absent; Ferry, yes, Dhein, yes; Lee, yes. Yu, yes; Mart, yes. 8 yes votes. Motion passed.

**6. BOARD OF ADJUSTMENT OLD BUSINESS:**

Resolution PB-15-2021 approval of PBapp-03-2019: 38 Main Street, Block 8 Lot 7, Applicant: Jeffrey Angstadt.

Motion to approve Resolution PB-15-2021, Giordano; Second, Conroy.

(Only those who voted "yes" at the Public Hearing can vote.)

Conroy, yes; Delgado, absent; Giordano, yes; Musnuff, absent; Wescoe, absent; Dhein, yes.  
3 yes votes, motion passed.

**7. BOARD OF ADJUSTMENT NEW BUSINESS:**

Public Hearing for PBapp-01-2021:42 Northwood Drive, Block 39.05 Lot 226 Owner/Applicant: Richard and Patricia Torkilsden

Motion to open Public Hearing for PBapp-01-2021: Giordano Second: Mart  
Voice vote: 6 Yes votes, motion passed.

Testimony, discussion, and comments from the public.

Attorney Todaro confirmed that notice and publication requirements for this application have been met and stated that the Board has jurisdiction to hear testimony on this application. He swore in Richard and Patricia Torkildsen. Mr. Torkildsen explained that they are requesting a C variance for setback lines for an enclosed structure. This proposed structure will not meet the 25-foot setback required in this zone. He stated currently there is an existing deck and shed outside the back door of the dwelling. Mr. Torkildsen stated that the deck needs repair as it is 35 years old. The plan is to remove the existing deck and shed and replace it with an enclosed sunroom/storage room. It would take up the same footprint as the existing deck which is 9 feet by 25 feet in size. Mr. Torkildsen stated that he has hired a professional contractor to build the structure.

Chairman Dhein asked how the size of the proposed structure compares to the existing structure. Mr. Torkildsen replied that the proposed structure is almost the same size as the existing structure. He also stated that with the addition of the square footage to their home he still falls within the threshold for the impervious coverage limits.

Board Alternate Mart asked if they were reducing the preexisting nonconforming rear set back of 14 feet to 5.8 feet by adding the enclosed structure. The applicant confirmed that this was the case. Mr. Mart also asked if the difference in setback lines is because the deck and shed were not calculated into the dimensions of the principal structure. Mr. Torkildsen confirmed this assertion.

Board Member Conroy asked the applicant if they were planning to use the existing footings for the sunroom. Mr. Torkildsen explained that they would be putting in footings. No footings were used with the existing deck which Mr. Torkildsen opined contributed to the deterioration of the deck.

Chairman Dhein asked Board Engineer, Kevin Nolstadt if the applicant had satisfied all the conditions. Mr. Nolstadt explained that the applicants had spoken with Board Engineer John Ruschke and he calculated the proposed impervious lot coverage. Mr. Ruschke reported that this addition would not exceed the 35 percent impervious lot coverage.

Board Secretary Kinsky spoke to the second point in the technical review letter from Mott Mac. This comment referred to the need for construction permits for the addition. Ms. Kinsky explained to the Board that she had already informed the Construction official, Ralph Price, and the applicants that should the application get approved construction permits would need to be submitted.

No members of the public were present to comment.

Motion to close Public Hearing for PBapp-01-2021: Souzzo Second: Mart  
Voice vote: 6 yes votes, motion passed.

Motion to approve PBapp-01-2021: Giordano Second: Mart

Conroy, yes, because of the testimony, because the documentation, and it's under 35%, pervious surface, and it is an improvement to the home and to the neighborhood.

Giordano, yes, they meet all the conditions. It's a simple addition, or replacement of an old structure that was on the property and will enhance their home and enhance their lives.

Suozzo, yes, for the reasons already cited by the other members. The testimony given explained that the structure that's going to be replaced is pretty much on the same footprint with only a variation of a couple of inches, and the fact that it is in poor condition and will be replaced.

Dhein, yes, and please note that there are no neighbors from the area that are here to object. The fact that it's replacing a deteriorating structure and will be an improvement, not only for the applicants, but for the Solitude Village area.

Yu, yes, all the conditions are met. The plan seems sound and thinks it is great that you're replacing a deck that is at the end of its life with something that's going to be better for you and for the town.

Mart, yes, it's essentially the same footprint, meets the conditions for impervious coverage and although I initially have some concerns about the setbacks being reduced, the setbacks are not being reduced from structures that are there. It will be a general improvement to the property.

Six yes votes, motion passed.

Board Member Suozzo asked a question regarding the possibility of requiring photographs for applications. A brief discussion with the Board ensued.

**PUBLIC COMMENTS:** It is the policy of the Planning Board/Board of Adjustment that all public comments on an issue shall be limited to one (1) minute per person and no person may make more than one (1) comment per subject. Comments may be made on any subject pertaining to Board issues. Comments pertaining to Public Hearings should be saved for that section of the agenda. No debating between residents. Comments should be addressed to the Chairman and Board members at the public microphone. NONE, no members of the public present.

**9. ADJOURNMENT:** Motion to adjourn: Suozzo Second: Mart Voice vote: Six yes votes, motion passed.

**Next Meeting Date:** August 16, 2021

**Meeting Location:** High Bridge Rescue Squad, 95 West Main Street, High Bridge, NJ 08829

**Meeting Time:** 7:30 P.M.

**BOROUGH OF HIGH BRIDGE PLANNING BOARD  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY**

**RESOLUTION NO. PB-16-2021**

**RESOLUTION OF THE BOROUGH OF HIGH BRIDGE PLANNING  
BOARD GRANTING BULK VARIANCE RELIEF TO ALLOW FOR THE  
CONSTRUCTION OF RESIDENTIAL ADDITION ON PROPERTY  
LOCATED AT 42 NORTHWOOD DRIVE (BLOCK 39.05, LOT 226)**

**APPLICATION NO. PBapp-01-2021**

**WHEREAS**, Richard Torkilsden and Patricia Torkilsden (collectively, the “Applicants”) are the record owners of certain real property identified on the Borough of High Bridge (the “Borough”) tax map as Block 39.05, Lot 226, more commonly located at 42 Northwood Drive (the “subject property”), within the R-4 High Density Residential zoning district (the “R-4 zone”); and

**WHEREAS**, the Applicants have applied to the Borough of High Bridge Planning Board (the “Board”) for variance relief pursuant to N.J.S.A. 40:55D-70(c), together with any other bulk variances or waivers deemed necessary by the Board, to allow for the construction of a nine (9)-foot by twenty-five (25)-foot sunroom/storage room addition to the existing residential dwelling on the subject property; and

**WHEREAS**, the Board has considered this Application pursuant to its authority and delegated additional power(s) to act as the Zoning Board of Adjustment of the Borough, as permitted by the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. (the “MLUL”) and the Borough Land Use and Development Ordinance (the “LUDO”); and

**WHEREAS**, the notice and publication requirements of the MLUL and the LUDO having been met, the Board accepted jurisdiction, and held a public hearing on this Application during its July 19, 2021 regular meeting; and

**WHEREAS**, the Applicants were not represented by legal counsel; and

**WHEREAS**, details of the Applicants' proposal are more specifically shown on the following plans and descriptions submitted in connection with this Application:

- Survey entitled "Survey for Deborah A. Fairchild & Kenneth R. Wilson," consisting of one (1) sheet, prepared by Robert W. Lee, P.L.S., dated June 22, 1979;<sup>1</sup> and
- Plans and architectural layout entitled "Plan View," consisting of four (4) sheets, handwritten and undated; and

**WHEREAS**, the Board considered the following staff reports:

- Engineering Report, dated May 14, 2021, from John K. Ruschke, P.E., P.P., C.M.E., the Board's Engineering Professional; and

**WHEREAS**, there were no additional exhibits entered into the record during the July 19, 2021 hearing; and

**WHEREAS**, during the July 19, 2021 hearing, the Board considered testimony proffered by the following fact and expert witnesses:

- Board's Engineering Professional;
- Applicant, Richard Torkildsen; and
- Applicant, Patricia Torkildsen; and

**WHEREAS**, the Board provided an opportunity for comments and questions from interested parties and the public; and

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<sup>1</sup> The survey supplied by the Applicants is marked by hand with sketches illustrating the proposed home addition.

**WHEREAS**, the Board has reviewed all materials and submissions, and is granting approval in reliance upon the representations and statements made in said materials and during the public hearing; and

**WHEREAS**, the Board, after carefully considering all of the evidence and testimony presented, finds as follows:

1. Preamble. The findings set forth in the foregoing preamble are hereby incorporated as if stated at length herein.
2. Subject Property. The subject property is a ±0.13-acre (±5,662.8-square foot) irregularly shaped residential parcel located within the Solitude Village community. It is improved with a ±1,024 square foot, detached one (1)-story residential dwelling. Driveway and parking access to the subject property is provided by a shared access driveway along the eastern side of Northwood Drive. There is a deck, as well as a storage shed, situated in the rear of the existing dwelling.
  - a. The following nonconformities exist on the subject property:
    - i. Minimum lot area (§145-203): 7,500 square feet (.17 acres) required, whereas ±5,662.8 square feet (±.13 acres) existing.
    - ii. Rear yard setback (principal building - (§145-203)): 25 feet required, whereas ±14.08 feet existing.
3. Application. As explained to the Board, the Applicants propose to remove the existing deck and storage shed, and build a nine (9)-foot by twenty-five (25)-foot sunroom/storage room addition that will attach to the residential dwelling. The

proposed addition will be constructed atop the existing footprint of the deck and storage shed, and extend into the rear (backyard) area of the subject property.

a. The Applicants testified that the shape and size of the subject property, coupled with the pre-existing nonconformities, prevent a configuration that strictly adheres to the LUDO. The subject property is an undersized parcel that was created by way of the Solitude Village planned residential subdivision. While the Applicants attempted to configure the addition in a manner that does not contravene the LUDO, the proposed location (existing footprint of accessory structures) is less than twenty-five (25) feet from the rear lot line shared with Lot 29.

i. The Applicants continued by explaining that neither the deck nor storage shed were erected upon footings. If approved, to properly effectuate the project the Applicants must install footings upon which to situate the sunroom/storage room addition. As a result, the proposed addition would expand the footprint of the principal dwelling and encroach upon the rear yard setback.

4. Zoning; Relief Sought.

a. Bulk Requirements

i. Rear yard setback (principal building - (§145-203)): 25 feet required / ±14.8 feet existing / ±5.8 feet proposed.

5. Legal Standard.

a. The MLUL at N.J.S.A. 40:55D-70(c)(1) provides that where, “by reason of an extraordinary and exceptional situation uniquely affecting a specific

piece of property or the structures lawfully existing thereon, the strict application of [a local land use] regulation ... would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property,” the Board shall have the power to grant “a variance from the strict application of such regulation so as to relieve such difficulties or hardship.” This is known as the “(c)(1) hardship” variance, and it requires that the hardship or practical difficulties in question relate to unique or exceptional physical features of the parcel, such as multiple road frontages, an irregular shaped lot, or the presence of existing features (*i.e.*, boulders, large trees) or structures that prevent compliance with the applicable zoning requirements.

- b. The MLUL also explains that, in the alternative, “where in an application ... relating to a specific piece of property the purposes of this act ... would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment,” the Board shall have the power to “grant a variance to allow departure from the [local land use regulation].” This is known as the “(c)(2) flexible” variance, and the focus here is on the public benefit to be derived from allowing the applicant to deviate from the otherwise applicable regulations, rather than on a hardship or condition of the land that prevents the applicant from conforming to the regulations. By way of example, a (c)(2) flexible variance may be viable in a situation where, if the applicant were to conform to the applicable setback requirement, the structure would be highly visible



to the public, and, on the other hand, relief allowing for a deviation from the setback requirements would allow the applicant to place the proposed structure closer to the property line so that conditions of the parcel may shield the structure from public view.

- c. Lastly, in the case of either a (c)(1) hardship or (c)(2) flexible variance, the applicant must prove, and the Board must subsequently determine, that the variances can be granted without substantially impairing the intent and purpose of the zoning ordinance and master plan, and without causing substantial detriment to the public good. This standard is known as the “negative criteria.”

6. Analysis. In this matter, the Board has determined that the Applicants’ proffer satisfies the criteria for both a (c)(1) hardship and (c)(2) flexible variance, and may be approved as presented. It is important to note that such circumstances also prohibit any precedential considerations in future applications.

- a. As explained by the Applicants, the proposed residential addition complies with all applicable provisions of the LUDO, apart from the rear yard setback requirement of 25 feet. The Board agrees that, based on the pre-existing nonconformities present on the subject property, a draconian application of Section 145-203 would impose an undue hardship on property owners who are merely attempting to effectuate improvements on the site. The deck and storage shed are in poor condition, and in need of repair. Due to the lack of footings or proper foundation, it is not prudent to repair either accessory

structure. Thus, the Applicants intend to remove the dilapidated accessory structures and erect a new addition that will better suit their needs.

- i. The Applicants' home is located  $\pm 14.08$  feet from the rear yard lot line, and the deck and shed are situated less than ten (10) feet from this rear setback. Pursuant to Section 145-404(E)(2)(b), accessory structures situated on lots within the Solitude Village community may be set back five (5) feet from the rear yard lot line. The Board acknowledges that once the Applicants remove the accessory structures, even utilizing the existing footprint triggers the principal building rear yard setback requirement of 25 feet.
  - ii. Further, the Board recognizes that the proposed addition is a practical and functional modification that will be a significant improvement not only to the subject property, but to the neighborhood as a whole. By constructing the sunroom/storage room in the footprint of the existing accessory structures, the Applicants will have made efficient use of the subject property in a manner that is consistent with the neighboring parcels, preserves the character of the neighborhood, and enhances the aesthetics.
- b. With respect to its obligation to consider this Application in terms of the negative criteria, the Board finds that this threshold has been met, as the deviations will neither cause a detrimental impact to the public good nor a substantial detriment to the zone plan or zoning ordinances by reasons of the grant of variance relief. Additionally, the Board's approval will not

have a detrimental impact on the neighboring parcels, and will not impair or impede the goals of the Borough Master Plan or LUDO.

- i. The current location of the existing accessory structures is a natural location to construct the replacement structure evaluated herein. The Board notes that the concerns typically associated with encroachments into property boundaries are not present in this case, as the existing deck and shed have been situated at the proposed location for decades, and no one appeared at the hearing to proffer testimony in opposition to this replacement project.
  - ii. The new structure to be attached to the existing residential dwelling will be in keeping with the home. Specifically, the Applicants will utilize construction and finishing materials that ensure the proposed addition compliments, and is consistent with, the exterior appearance of the principal dwelling.
  - iii. Further, the Applicants' project will not exacerbate any other pre-existing nonconformities burdening the subject property.
  - iv. Based on the testimony proffered and materials submitted, the Board is satisfied that this proposal will not create a cognizable negative impact on the public good and surrounding community.
7. Conclusion. For the justifications stated herein, special reasons exist to approve the sought variance, and same may be granted without detriment to the public good and without substantially impairing the zone plan or zoning ordinances, provided

that the Applicants adhere to and comply with their representations, as well as the conditions recommended by the Board and its professionals.

**NOW, THEREFORE,** be it resolved that based upon the aforesaid findings, determinations and conclusions which are all specifically made a part hereof, by a vote of five (5) in favor and none opposed, the Borough of High Bridge Planning Board in Hunterdon County, New Jersey, hereby grants the requested variance relief to allow for the construction of a nine (9)-foot by twenty-five (25)-foot sunroom/storage room addition to the existing residential dwelling that will be located 5.8 feet from the rear yard property line, as requested by the Applicants at the hearing on July 19, 2021, and as stated in Application No. PBapp-01-2021. This approval is conditioned, however, on the Applicants' adherence and satisfaction of the following:

1. The improvements and the Applicants' project shall conform to the size, design, layout, and location shown on the underlying Application submissions (Application No. PBapp-01-2021) and representations made to the Board during the July 19, 2021 public hearing.
2. The Applicants shall obtain all necessary certificates of occupancy, or since the structures already exist, certificates of continued occupancy.
3. The Applicants shall obtain the approval (or letter of no interest) from any and all other outside agencies having jurisdiction of this application prior to the issuance of any construction permit(s) or certificate(s) of occupancy.
4. The Applicants shall comply with all comments and conditions set forth on the record and in the Board's professionals' reports, except as specifically modified by the provisions of this Resolution.

5. The Applicants will pay all development, application, escrow, and inspection fees attendant to this Application within thirty (30) days of the date of adoption of this Resolution.
6. Evidence of the attainment of the outstanding conditions set forth in this Resolution shall be in writing by the professional or entity having oversight or jurisdiction, and placed in the Applicants' file with the Borough.

A. The approval(s) granted by this Resolution and development pursuant thereto, is subject to compliance at all times with all applicable Federal, State, County, and Borough laws and regulations, including, without limitation, all environmental, health, and building and property maintenance codes. The project effectuated pursuant to these approvals, including demolition and construction, shall be maintained in good condition, and kept in compliance with these approvals in perpetuity, except as may be permitted by the Borough.

B. The date of the decision shall be July 19, 2021, except that the date of the adoption of this Resolution, August 16, 2021, is the date of the decision for the purposes of: (i) mailing a copy of the decision to Applicants within ten (10) days of the date of the decision; (ii) filing a copy of the decision with the administrative officer; and (iii) publication of a notice of this decision.

**ROLL CALL VOTE ON THE MOTION TO APPROVE THE APPLICATION**  
**July 19, 2021**

Moved by:	Mr. Giordano
Seconded by:	Mr. Mart
Those in Favor:	Chair Dhein, Councilwoman Ferry, Mr. Giordano, Mr. Suozzo, and Mr. Mart
Those Opposed:	None
Those Abstaining:	None
Those Absent:	Vice Chair Musnuff, Mr. Delgado, Mr. Wescoe

**CERTIFICATION**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Borough of High Bridge Planning Board during an advertised and noticed meeting held on August 16, 2021, at which a quorum was present.

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Barbara Kinsky, Board Secretary

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Steve Dhein, Chairperson