

- (X) Approved
- (X) General Conditions
- (X) Additional Conditions
- () Denied

EVESHAM TOWNSHIP ZONING BOARD
RESOLUTION # ZB-05-36

<p>() Appeal from Administrative Officer Decision.</p> <p>() Interpretation</p> <p>(X) "C" Variance</p> <p>() "D" Variance</p> <p>() Subdivision</p> <p>() Site Plan</p> <p>()</p>	<p>Application # <u>ZB-05-36</u></p> <p>Applicant <u>Candida Fabia</u></p> <hr/> <p>Owner <u>Same</u></p> <hr/> <p>Block <u>13.46</u> Lot <u>9</u> (P.I.Q.)</p> <p>Action <u>November 21, 2005</u></p> <p>Memorialized <u>December 19, 2005</u></p> <p>Plan Name <u>Final Survey for Lot 9, Block</u> <u>13.46 prepared by Allan Kammerer dated</u> <u>October 15, 1984 and plans, elevations, and</u> <u>section drawing by Walter A. Olt,</u> <u>architect/planner dated 6/30/05</u></p>
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WHEREAS, the applicant has applied to the Evesham Township Zoning Board of Adjustment (ETZBA) for the following primary approvals(s): Zoning Permit for the construction of a residential addition to single family dwelling _____; and

WHEREAS, the applicant has applied for the following ancillary approvals(s): Variances pursuant to N.J.S.A. 40:55D-70c as to the following: (a) minimum front yard set back under Code Section 160-64.E(1) proposing a front yard setback of 12 feet where 30 feet is required; and (b) a rear yard set back of 12 feet where 25 feet is required.

WHEREAS, the application was considered by the ETZBA on November 21, 2005; and

WHEREAS, a public hearing () was not required; or

WHEREAS, a public hearing (X) was required and the ETZBA has considered that public comments

- (X) were not made by the public
- () were made in favor of all or some aspect of the application
- () were made against all or some aspect of the application; and

WHEREAS, it appears that all jurisdictional and procedural requirements of applicable Township Ordinances have been met; and

WHEREAS, the ETZBA has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the ETZBA has considered the recommendations and comments of its professional staff and no written reports:

() Engineer report(s) dated _____

() Planner report(s) dated _____

() Traffic consultant report(s) dated _____

() Environmental Consultant report(s) dated _____

() Evesham Township Environmental Protection Committee report(s) dated _____

() Other _____

Copies of which are **not** attached.

WHEREAS, it appears that all requirements necessary to approve the application have been met; and

WHEREAS, the ETZBA has made the following findings of fact and conclusions (see attached); and

NOW THEREFORE, BE IT RESOLVED that the above primary approval(s) applied for be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the above ancillary approvals be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the approval(s) hereby granted are made subject to the following General Conditions applicable to this type of application (see attached); and

BE IT FURTHER RESOLVED that the approval(s) hereby granted (X) are made subject to () are not made subject to the following Additional Conditions (See attached).

The foregoing action was taken by the ETZBA on November 21, 2005 upon the motion of Pullo, seconded by Troso with the vote on the motion being as follows:

AYE: Passanante, Troso, Waters, Pullo, DeCicco, Saper

NAY: Ragozine

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The foregoing action was memorialized by the ETZBA on December 19, 2005 upon the motion of Waters, seconded by Passanante with the vote on the motion being as follows:

AYE: Passanante, Waters, DeCicco, Ragozine

NAY:

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The undersigned Secretary of the ETZBA hereby certified that the above is a true copy of Resolution # 2B 05-36 adopted by the ETZBA on 12-19-05.


D. CHARLENE GRABOWSKI, SECRETARY

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant initially applied for a variance pursuant to N.J.S.A. 40:55D-70c to permit the construction of an addition to a single family dwelling.

2. The property is located at 109 Kent Avenue, Marlton, New Jersey and is more particularly described as Block 13.46, Lot 9 on the Evesham Township Tax Map (hereinafter referred to as the P.I.Q.”).

3. The applicant indicated that they proposed to construct an addition to the property in the approximate dimensions of 46-feet by 22-feet with an approximate proposed additional square footage of 805 square feet.

4. The applicant also applied by way of ancillary approvals, for variances pursuant to N.J.S.A. 40:55D-70c as to the following: (a) front yard and rear yard set back under Code Section 160-64.E(1).

5. The applicant oriented the P.I.Q. by reference to the surrounding uses and detailing the nature of the residential development in the area.

6. The applicant indicated that the need for the requested variances arose from the small size of the P.I.Q. and the fact that it is a corner lot and from the applicable buffer standards. If all of the zoning standards were imposed, the P.I.Q. would be not support such an addition to the principle use.

7. The applicant indicated that there is a pre-existing non-conformity associated with the front yard set back requirements of the ordinance and that the rear corner of the existing structure is 19.2 feet from the property line on the same side where 12 foot is being proposed.

8. The applicant indicated that no substantial detriment to the public good would occur from the requested variance, as there are similar structures in the neighborhood with similar non-conforming set backs. The applicant indicated that the proposed addition to the residence would be of a consistent architecture and materials as is presently used on the existing structure and in the surrounding neighborhood.

9. The applicant agreed, as a condition of approval, to construct the addition with a similar architectural style and similar exterior roofing and siding materials to those on the single family home located on the P.I.Q. and similar to those presently in the area.

10. The applicant agreed, as a condition of approval, that the additional living space shall be continuously accessible from the existing square footage within the dwelling so as not to create an apartment and/or additional use on the property. The applicants plan shows the demolition of a portion of the demising wall between the existing dwelling and the proposed addition. The applicant agrees that the access space between the two living areas shall remain open and that it will not be blocked by the subsequent construction of a demising wall between the two spaces and/or the addition of any closed door but rather shall remain open in order to accommodate free and open access between the two spaces within this single family dwelling.

11. Based upon all the foregoing, the ETZBA finds that by reason of the extraordinary and exceptional situation uniquely affecting the P.I.Q. that strict application of the Evesham Township Zoning Ordinance would result in peculiar and practical difficulties to, or exceptional and undue hardship upon the applicant. Specifically, the narrowness and shape of the P.I.Q. and the fact that the P.I.Q. is a corner lot, justify the grant of the variances pursuant to N.J.S.A. 40:55D-70(c).

12. The ETZBA further finds that the requested variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Evesham Township Zone Plan and Zoning Ordinance. Specifically, given the residential character of the architecture proposed by the applicant and the proposed buffering, no substantial impairment would occur to the zone plan or zoning ordinance and no substantial detriment would occur to the public good.

13. The ETZBA therefore concludes that the variances as to the following should be and are hereby granted to the P.I.Q. subject to the conditions set forth in this resolution: (a) front yard set back under Code Section 160-64.E(1) allowing 12 feet where 30 feet is required and (b) rear yard set back allowing 12 feet where 25 feet is required.

14. Based upon all of the foregoing, the ETZBA finds that the application appears to satisfy all requirements for the grant of the approval and should be and are hereby granted to the PIQ subject to the conditions set forth in this resolution.

GENERAL CONDITIONS OF APPROVAL

1. Any variance granted permitting the erection or alteration of any structure(s) or a specified use shall expire unless such construction, alteration or use shall have been actually commenced on each and every structure permitted by said variance within one (1) year from the date of the ETZBA's action and is diligently pursued to completion; except, however, the running of this period shall be tolled from the date of filing an appeal from the ETZBA's decision to Township Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding (Code Section 15-5). This Condition shall not apply if preliminary approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-49 or if final approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-52.

2. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date of this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETZBA within thirty (30) days of the date the decision is memorialized.

3. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or appeal in accordance with Code Section 94-10K.

4. These General Conditions of Approval shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. The Additional Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

6. The approval(s) granted is/are conditioned upon the applicant obtaining the following governmental approval(s).

- () Burlington County Planning Board
- () Pinelands Commission

7. Prior to the commencement of any construction, the applicant shall obtain the following governmental approvals and/or permits:

- (X) Evesham Township Construction Code Official
- () Burlington County Soil Conservation District
- () New Jersey Department of Transportation Highway Access Permit
- () Burlington County Engineer Highway Access Permit
- () Burlington County Engineer Utility Connection Permit
- () Burlington County Board of Health Approvals
- () Evesham Municipal Utilities Authority approval (including, without limitation, W-4 and S-4 permits
- () New Jersey Department of Environmental Protection
- () New Jersey Department of Environmental Protection-wetlands delineation, wetlands transition area and/or general permit(s) approval

8. The applicant shall be responsible for and shall satisfy, in accordance with the Evesham Township Land Use Ordinance, the following fees and charges:

- () Mandatory Development Fees
- () Floor area Ratio Fees in the amount of \$_____.

9. Any improvement(s) to be constructed as a result of the ETZBA approving this application shall be constructed and operated in full compliance with the Code of Evesham Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

10. Unless specifically waived in whole or in part and noted in the Additional Conditions of this approval, if the above application involves the granting of a final major subdivision approval or a final site plan approval or the approval for the issuance of a zoning permit, the applicant, in order to assure the installation and maintenance of all required improvements required by the preliminary approval or as a condition to the issuance of a zoning permit, shall furnish written performance guarantees and written maintenance guarantees in the form(s) which comply with the provisions of N.J.S.A.

40:55D-53, et seq. and the Evesham Township Code. The amount of each performance guarantee shall equal 120% of the amount estimated by the Township Engineer as the cost of installing the required improvements. The maintenance guarantee shall equal 15% of the cost of the improvements and shall cover a period of two (2) years after the final acceptance of the improvements.

11. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETZBA shall not sign the Final Subdivision Plat or Final Site Plan nor shall any zoning permit issue until the applicant has posted the required performance guarantee and the applicant has demonstrated that all conditions of the final approval have been satisfied.

12. Applicants seeking site plan or preliminary and/or final subdivision approval shall:

A. Submit five (5) copies of a complete survey of the property (except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor.

B. Submit a topographic survey showing contour intervals of two (2) feet at a scale no larger than one (1) inch equaling one hundred (100) feet.

C. Submit five (5) copies of complete (as-built) plan of any improvements, except for streets, on the dedicated property.

D. Submit a deed of conveyance, approved as to form, content and description by the Township Attorney. The said deed shall contain provision for the signature of the Mayor and attestation by the Township Clerk. Where streets are offered for acceptance, a legal description by metes and bounds describing the centerline shall be included.

E. Obtain title insurance naming the Township of Evesham as the insured party in an amount equal to the fair market value of the dedicated property; this requirement shall not pertain to streets. In the case of drainage easements not shown on or generated after the final plan is filed in the County Clerk's office and property having a fair market value on one thousand dollars (\$1,000) or less, a title search indicating marketable title shall be sufficient, provided that said search is certified by a title insurance company authorized to do business in the State of New Jersey.

13. If a minor subdivision approval has been granted, such approval shall lapse unless within 190 days from the date the approval has been granted the applicant either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-99, et seq.) or records a deed with the County Clerk which clearly described the approved minor subdivision and files a copy of the deed with the Township's Engineer and the Township's Tax Assessor. Such deed shall also be signed by the Chairman and Secretary of the ETZBA.

14. If a final approval has been granted, the applicant shall submit to the ETZBA Engineer for his review a minimum of 8 complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

15. As part of this first application for final approval, the applicant shall provide a construction schedule as required by the Evesham Township Ordinances which must be satisfactory to the ETZBA Engineering Consultant.

16. The applicant shall comply with Title 39 of the New Jersey Statutes.

17. The applicant shall construct all drainage basins or alternate drainage facilities upon the P.I.Q., including inflow and outflow structures, prior to the commencement of any construction upon the P.I.Q.