RESOLUTION TOWNSHIP OF WASHINGTON

ZONING BOARD OF ADJUSTMENT

Introduced by:

Grimaldi, Hanna, LaGratta, Moore, Ozment, Plantamura, Werfel, Toro, Goetz (Chairman)

Seconded by:

Grimaldi, Hanna, LaGratta, Moore, Ozment, Plantamura, Werfel, Toro, Goetz (Chairman)

WHEREAS, B & C REALTY ASSOCIATES, LLC (the "Applicant") was represented by counsel, Robert A. Del Vecchio, Esq. and has applied to the Zoning Board of Adjustment of the Township of Washington for Site Plan approval and variance relief from the zoning code to grant the Applicant permission to build a single family dwelling on a vacant lot. The property is known as Mountain Avenue and designated as Lot 47, Block 4424 on the Tax and Assessment Map of the Township of Washington. The subject property is classified as an "interior lot" and is located in the "Class B" Zoning District. The property exhibits a total frontage of 50.00 feet with a lot depth of 100.00 feet for a total lot area of 5,000.00 square feet which is an existing non-conforming property within the zoning requirements of the "Class B" Zone. The Applicant seeks approval for the following variances:

a)Minimum Lot Width: The applicant proposes a lot width of 50.00 feet where a minimum lot width of 75.00 feet is required. This is a pre-existing non-conformity;

b) Minimum Lot Area: The applicant proposes a lot area of 5,000.00 square feet where a minimum lot area of 7,500.00 feet is required. This is a pre-existing non-conformity;

c) Maximum Building Coverage: The applicant proposes a maximum building coverage of 24.6% where a maximum building coverage of 20.00% is permitted.

d) Maximum Impervious Coverage: The applicant proposes a maximum impervious

coverage of 32.1% where a maximum impervious coverage of 30.00% feet is permitted.

e) Minimum Garage Floor Area: The applicant proposes a garage floor area of 306 square feet where a minimum garage floor area of 500 square feet is required.

f) Maximum Building Height: The applicant proposes a maximum building height of 23.9 feet/2 stories where a maximum building height of 16.67 feet is permitted.

g) Minimum Distance Between Buildings: The applicant proposes a minimum distance of 18.7 feet between buildings (11.00 feet on the north easterly side yard in combination with the nearest distance of the dwelling on the adjoining property of 7.7 feet) where the minimum distance permitted is 20.00 feet. The Application is found to conform with all other applicable zoning criteria for the Class B Zone.; and

WHEREAS, the Township of Washington Zoning Board of Adjustment carefully considered the testimony of the Applicant, and evidence presented by the Applicant and their professionals and Board discussion and comments during the general public hearings held on April 16, 2019 and May 21, 2019 and;

WHEREAS, the Township of Washington Zoning Board of Adjustment has reviewed the following:

a. Township of Washington Application for Variance by applicant, B & C Realty Associates, LLC, and consisting of twenty-five (25) sheets;

b. The report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury Engineering, Inc. dated August 27, 2018 and consisting of five (5) sheets;

c. The report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury

Engineering, Inc. dated May 17, 2019, and consisting of eight (8) sheets;

d. Site Plan, prepared by Lantelme, Kurens & Associates, P.C. (Christopher Lantelme, P.E. & L.S.,) dated March 29, 2018, last revised August 16, 2018 and consisting of one (1) sheet and marked into evidenced as Exhibit A-1;

e. Architectural Floor Plans and Elevations, prepared by Babula Architecture, LLC,(John Babula, R.A.) dated March 16, 2018, last revised April 18, 2019 and consisting of four (4) sheets and marked into evidenced as Exhibit A-2;

f. Certification of Service with exhibits, prepared by Robert A. Del Vecchio, Esq. dated March 11, 2019 and consisting of eight (8) sheets;

g. Photographs of adjacent properties and tax maps, prepared by Peter G. Steck, P.P., dated March 19, 2019 and consisting of three (3) double-sided sheets and marked into evidence as Exhibit A-3.

h. Nine (9) color photographs of existing dwellings in the neighborhood, provided by Dennis Brendel and Margert Brendel and marked into evidence as P-1.

WHEREAS, the Township of Washington Zoning Board of Adjustment has made the following findings of fact and conclusions of law:

1. The property designated as Lot 47, Block 4424 is presently a vacant lot and is located in the "Class B" residential zone. The Applicant's proposed used of the property is a permitted use in the "Class B" Zone;

2. At the public hearing held on April 16, 2019 the Applicant's Attorney and one of the Principals of the Applicant, Robert A. Del Vecchio, Esq. advised the Board regarding the history of the

property and that it's a vacant pre-existing non-conforming fully wooded interior lot. Mr. Del Vecchio advised the Board that he would like to build a single-family dwelling on the property and that there is an existing dwelling on both sides of the property. He advised that Board that he did reach out to both adjacent property owners to inquire if they would be interested in selling him a portion of their land to make the lot conforming or if they were interested in buying his property at fair market value. However, he advised that no agreement was ever reached with the adjacent property owners. Upon review of the Application the Board noted that the Applicant was requesting seven (7) variances with two (2) of them being existing non-conformities. Mr. Del Vecchio advised that due to the undersized lot that any dwelling constructed on the Applicant's property would require multiple variances in order to construct any style dwelling but more variances were needed in order construct a modern and marketable dwelling. The Board noted that while the Applicant can construct a dwelling on the property and would require some variances the proposed plans were too large of a dwelling for the size of the property and proximity to the neighboring dwellings. The Board noted that several members of the public, including the adjacent property owners objected to the size of the proposed dwelling as it would significantly reduce the amount of sunlight they would receive on their properties, was out character for the neighborhood and was too large for this particular sized lot. The Board advised the Applicant that based upon this it would be difficult for the Board to approve the current Application. After discussing briefly with his professional witnesses, the Applicant requested the Board to carry the Application to the May meeting in order to revise the plans and present new plans that he hoped would be acceptable to the Board.

3. At the May 21, 2019 meeting the Applicant presented their revised plans. The Applicant's Architect, John Babula, R.A., was sworn in and accepted as an expert witness. Mr. Babula testified that the Applicant has made significant changes to the plans since the last meeting. He testified that the Applicant reduced the overall depth of the proposed dwelling from 53.0 feet to 48.0 feet. He

testified that the overall width remained the same but the foyer, dining room and kitchen have been reduced by 1.0 foot and the garage, powder room and family room have been increased by 1.0 foot. He testified that the total living space within the dwelling was reduced from 2,521.0 square feet to 1,934.0 square feet. Mr. Babula further testified that the proposed building coverage was reduced from 30% to 24.6%. He also testified that that the vertical separation distance between the finished first floor elevation and the highest roof ridge elevation has been reduced by 3.0 inches from 21'-2 ½ " feet to 20'-11 ½" feet. Mr. Babula testified that the Applicant reduced the proposed dwelling from a four (4) bedroom dwelling to a three (3) bedroom dwelling, eliminating one (1) bedroom and a walk-in closet and brought the roof pitch down. He testified that the ceilings are 8.0 feet high and cannot be reduced any further. He testified that the Applicant did consider a bi-level style dwelling, however, the dwelling would need to be wider, did not reduce the coverage and height would still be an issue.

4. The Applicant's Planner, Peter G. Steck, P.P. was sworn in and accepted by the Board as an expert witness. Mr. Steck testified that the adjacent dwelling to the left of the property is a two (2) story dwelling with only one (1) window on the side facing the proposed dwelling. He further testified that most of the windows on the dwelling on the other side were on the first floor and would be affected no matter what type of dwelling was constructed next to it. He testified that the Applicant's lot was a vacant wooded lot for decades and that most of the lots with 50.00 foot frontage have homes that were built in the 1950's when Cape Cod style dwellings were fashionable. However, Mr. Steck testified that no one is building this style of home anymore and the Applicant cannot make the lot any larger. He testified that any new construction being built at the present time would be two (2) stories as living requirements have changed over time and a Cape Cod style house would be much less marketable. Mr. Steck testified that the proposed dwelling distance to the adjacent dwellings would be conforming on the left side but not on the right side. However, he testified that this was because the dwelling on the right was also non-conforming as a portion of the dwelling was only 7.7 feet from the

property line. He further testified that the Applicant significantly reduced the proposed size of the dwelling since the last meeting and is constructing a reasonably sized dwelling to meet the needs of the modern home buyer and that a smaller home would not be marketable. Mr. Steck acknowledged that trees will be removed which is a negative, however, there will be less light no matter what is built on the property. He testified that the neighbors have enjoyed the benefits of being next to a vacant lot but they knew at some point it would be developed and they are not guaranteed light and air. In addition, he testified that the Applicant did try to purchase more land from his neighbors or sell them his property but they could not reach a fair agreement. He testified that if the Applicant constructed a dwelling that was in conformity with a strict interpretation of the zoning ordinance it would not be marketable as the current trend of new construction is not a one (1) story Cape Cod style dwelling. Accordingly, Mr. Steck testifies that this strict interpretation is the reason to grant the requested variances. He testified that the proposed dwelling is consistent with the style of dwellings in the neighborhood.

5. Dennis Brendel, Margret Brendel and Charles Eapen, own the neighboring properties and commented during the public portion of the meeting and provided color photographs of neighboring homes. They testified that there were many Cape Cod style homes in the neighborhood and that this type of home would be more in character with the neighboring properties and lots of this size. Mr. Steck testified that the Applicant's lot can be distinguished from every other property as it is vacant and a dwelling will be constructed based upon the current demand for larger homes and must be marketable. He further testified that all of the other Cape Cod style dwellings were built during the 1950's and 1960's. During the public portion of the meeting the neighboring property owners testified that they understand that a new dwelling will eventually be constructed on the Applicant's property and they will inevitably lose some light, however, the height is the issue. Mr. Babula testified that in order to have two (2) stories they could not reduce the height and that they already significantly reduced the size of dwelling and a Cape Cod style dwelling was not financially viable.

6. There was also some public questions about impervious coverage and drainage. The Township's engineer, Paul Azzolina, PE, CME, was present at the meeting and advised the Board that the Applicant was installing a new 1,000 gallon seepage pit and the stormwater management plan was adequate. In addition, at the hearing the Applicant agreed to reduce the length of the property by another 5.0 feet to a length of 43.0 feet which also eliminated the need for a variance for the impervious coverage.

7. Pursuant to N.J.S.A 40:55D—70c(1), the Applicant seeks site plan approval with variance relief for maximum building coverage, maximum impervious coverage, minimum building height, minimum garage floor area, minimum distance between buildings, minimum lot area and minimum lot frontage. The Applicant's proposed use is a permitted use in the "Class B" Zone.

8. The application complies in all other respects as to the zoning requirements of the Class B Zone.;

WHEREAS, the Zoning Board of Adjustment of the Township of Washington has determined that the Applicant has satisfied the criteria for granting a c(1) variance and has accepted the testimony of the Applicant, their Architect and Planner that the variances would be needed due to the property being a non-conforming undersized lot which was a hardship that the Applicant cannot change. The Board noted that the Applicant attempted, but was unable to purchase any additional property to make the property a conforming lot. The Board also noted the Architect and Planner's testimony that several variances would have to be granted regardless of the style of dwelling that was constructed. The Board also noted that the type of dwelling that would comply with the zoning ordinance would not be as marketable as the proposed dwelling. The Board noted that the revised plans have been significantly reduced from the original plans to address some of the Board's and neighbor's concerns and is another reason why the Board believes it is justified in granting the variance request.

WHEREAS, members of the public were invited to ask questions of the Applicant after testimony was given, and all questions offered by members of the public were answered to the satisfaction of the Zoning Board of Adjustment;

WHEREAS, the Zoning Board of Adjustment has determined that the relief requested by the Applicants can be granted without substantial detriment to the public good and without substantially impairing the intent purpose of the Zoning Ordinance of the Township of Washingtone, the enforcement of which would result in practical difficulty and unnecessary hardship in the renovation and use of applicants' property. Moreover, the Board finds that the plan represents a better planning alternative with the least impact on the property as a whole, and is not out of character, and is not likely to be a substantial detrimental impact upon any other properties in the neighborhood, and would blend into the surrounding properties;

NOW THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Washington on this 18th day of June, 2019 that based upon the findings of fact, testimony presented and documents submitted for review as previously set forth, the application of B & C Realty Associates, LLC is hereby granted to allow the following:

a) Minimum Lot Width: The applicant proposes a lot width of 50.00 feet where a minimum lot width of 75.00 feet is required. This is a pre-existing non-conformity and this variance was APPROVED by the Board;

b) Minimum Lot Area: The applicant proposes a lot area of 5,000.00 square feet where a minimum lot area of 7,500.00 feet is required. This is a pre-existing non-conformity and this variance was APPROVED by the Board.;

c) Maximum Building Coverage: The applicant proposes a maximum building coverage of 24.6% where a maximum building coverage of 20.00% is permitted. The Applicant agreed to reduce

the length of the dwelling to 43.00 feet at the hearing thereby reducing the building coverage to 21.8%. Accordingly, the variance for 21.8% was APPROVED by the Board.

d) Maximum Impervious Coverage: The applicant proposes a maximum impervious coverage of 32.1% where a maximum impervious coverage of 30.00% feet is permitted. The Applicant agreed to reduce the length of the dwelling to 43.00 feet at the hearing thereby reducing the impervious coverage to 29.3%. Accordingly, a variance is no longer required.

e) Minimum Garage Floor Area: The applicant proposes a garage floor area of 306 square feet where a minimum garage floor area of 500 square feet is required. The Applicant agreed to reduce the garage floor area to 278 square feet at the hearing. This variance at 278 square feet as APPROVED by the Board.

f) Maximum Building Height: The applicant proposes a maximum building height of 23.9 feet/2 stories where a maximum building height of 16.67 feet is permitted. This variance was APPROVED by the Board.

g) Minimum Distance Between Buildings: The applicant proposes a minimum distance of 18.7 feet between buildings (11.00 feet on the north easterly side yard in combination with the nearest distance of the dwelling on the adjoining property of 7.7 feet) where the minimum distance permitted is 20.00 feet. This Variance was APPROVED by the Board.

The Board also approved the Application subject to the following conditions:

a) The driveway shall be constructed with permeable pavers;

b) The air conditioner unit must be located at the rear of the property and have adequate screening;

c) The garage will be located on the left side of the property;

d) The dwelling will be reduced from 53.00 feet to 43.00 feet and located with a rear yard setback of 36.00 feet;

e) The Applicant will submit a landscaping plan to be reviewed and approved by the Zoning Board Engineer.

f) The Board Chairman shall sign off on the Approved plans when submitted.

BE IT FURTHER RESOLVED that the Applicant shall comply with all of the stipulations made during the hearing on this Application as set forth herein and on the record before the Board.

BE IT FURTHER RESOLVED the Applicant's failure to comply with conditions set forth in this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of either a building permit and/or Certificate of Occupancy of the premises, subject to reasonable notice and the opportunity to cure.

BE IT FURTHER RESOLVED that pursuant to the Code of the Township of Washington, the variances granted will expire within one (1) year from the date of this Resolution if construction is not commenced, however, this Board reserves the right to grant extensions of time from this Resolution if circumstances warrant the same;

BE IT FURTHER RESOLVED, that the Secretary of the Zoning Board of Adjustment of the Township of Washington is hereby directed to mail a copy of this Resolution to applicant; to furnish a copy to the building department; to file a copy of this Resolution with the Township of Washington Clerk, and Board Engineer; and to cause a notice of this determination of the Zoning Board of Adjustment to be published in the official newspaper of the Township of Washington within ten (10) days of the date hereof and thereafter published according to law.

BY THE BOARD

Dated: June 18, 2019

BY:_____

Frederic Goetz, Chairman

Certified to be a true copy of the Resolution adopted by the Zoning Board of Adjustments of the Township of Washington at its meeting on Tuesday, June 18, 2019.

Barbara Coleman
BARBARA COLEMAN, Secretary

	Ayes	Nays	Abstain	Absent
Moore	✓			
Grimaldi				✓
Hanna	✓			
LaGratta	✓			
Ozment	✓			
Plantamura				✓
Werfel			✓	
Toro				✓
Goetz	✓			