

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, MARIA LIBERTI AND MICHAEL LIBERTI (the “Applicant”) have applied to the Zoning Board of Adjustment of the Township of Washington for variance relief from the zoning code to grant the Applicant a height variance for a residential dwelling that was renovated in 2018 with plans that did not require any variances but where upon completion the height is 1 foot and 8 ¾ inches above what was submitted to the building department and what is permitted. The property is known as 342 Colonial Boulevard and designated as Lot 1, Block 4403 on the Tax and Assessment Map of the Township of Washington. The subject property is classified as a “corner lot” and is situated in the “Class B” Zoning District with the primary means of egress to the dwelling being located on the Colonial Boulevard frontage. The property exhibits a total frontage of 100.00 feet with a lot depth of 100.00 feet for a total lot area of 10,000.00 square feet which is in conformance with the zoning requirements of the Class B Zone. The Applicant seeks approval for a maximum building height of 26’-8 ¾” the maximum the maximum height permitted 25.0 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 Applicants, Michael Liberti and Maria Liberti and Applicant’s Architect Robert P. DePippa, Jr., R.A., and evidence presented by the Applicants and their professionals and Board discussion and comments during the general public hearings held on 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, Maria Liberti and Michael Liberti, dated March 28, 2019 and consisting of thirteen (13) double sided sheets;
- b. The report of the Township Engineer, Paul Azzolina, PE, CME, Azzolina & Feury Engineering, Inc. dated March 23, 2018 and consisting of three (3) sheets;
- c. Floor plans, prepared by Robert P. DePippa, Jr., R.A., dated November 1, 2017 and last revised on September 4, 2018 (As-Built) and consisting of five (5) sheets and marked into evidenced as Exhibit A-1;
- d. Affidavit of Service, prepared by Michael Liberti and Maria Liberti, dated May 4, 2019 and consisting of seven (7) double sided sheets.

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 1, Block 4403 is presently used as a residential dwelling 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 May 21, 2019 the Applicants, Michael Liberti and Maria Liberti were both sworn in. Mr. Liberti testified that their initial plans to renovate their home were approved by the Building Department in the spring of 2018 and did not require any variances. However, he further testified that due to a discrepancy in the architectural plans the dwelling was built 1" 8 ¼" higher than what is permitted. Mrs. Liberti testified that the property was a ranch style dwelling

and they added a second floor as per the plans submitted. However, she further testified that her architect made an inadvertent error in the plans. She testified that the framer relied upon the architects plans and accordingly after the attic was framed it was approximately 2.00 feet higher than it was supposed to be had the plans been correct. Mrs. Liberti testified that they were made aware of this by John Scialla, the Construction Official from the building department. However, she further testified that the building department did not issue a stop order and advised them to continue building. She testified that the construction was completed in the fall of 2018 and she tried to contact Mr. Scialla, but he would not speak to her. She then testified that she spoke to the Township Engineer, Paul Azzolina, PE, CME who advised her that she needed to apply for a variance. She testified that a Temporary Certificate of Occupancy was issued in December 2018 and was going to expire at the end of May 2019 if they did not get a variance.

3. The Applicant's Architect, Robert P. DePippa, Jr., R.A, was sworn in and accepted by the Board as an expert witness. Mr. DePippa testified that he was trying to keep the pitch as low as possible. However, he testified that there was a raised plate and because of the structure you cannot cut into 12.00 inches of the plate otherwise the plate loses its structural integrity, so the height would have to be higher than originally planned. Mr. DePippa also testified that the ceiling heights were at the bare minimum and there was a drop in grade by the garage. He testified that in order for the Applicant to now comply with the zoning ordinance the roof would have to be demolished and a conforming roof would be very flat. He testified that if the roof were to be demolished the property would have to be vacant and the Applicant would have to move out until it was completed. Mr. DePippa testified that he was aware of the issue after the framing was completed in June or July of 2018 but was told by the building department to continue and a Temporary Certificate of Occupancy was issued December 11, 2018.

4. Paul Azzolina was present at the meeting and advised the Board that a stop work order

was never issued and that the initial plans that were approved were in conformance with the zoning criteria for the zone and no variances were required. However, he advised that when Mrs. Liberti spoke to him after learning that the “as built” dwelling was different from the plans and not in compliance with the Borough’s Zoning criteria he advised her to apply for a variance. Mr. Azzolina also testified that Mr. Scialla was on medical leave during the summer of 2018 and the secretary at the building department during that time is no longer there as well. Mr. Azzolina also testified that based upon the Architect’s testimony they would need to give him at least another 18.00 inches for the structural issues encountered during the framing process.

5. Pursuant to N.J.S.A 40:55D—70c(1), the Applicant seeks a height variance to allow a maximum building height of 26’-8 ¾” where the maximum height permitted is 25.0 feet. The Applicant’s proposed is a permitted use in the “Class B” Zone.

6. The application complies in all other respects as to all other setbacks, height, coverage, etc.;

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 and their Architect that the height variance would be needed due to the structural issues discovered when the framing process was completed. In addition, requiring the removal of the roof to comply due the structural issue and inadvertent error in the architectural plans would create an undue hardship on the Applicants as they would need to move out of the property and a conforming roof would be very flat creating other drainage issues. The fact that the Building Department never issued a stop order despite being aware of the height issue was also a factor in creating this undue hardship and 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 Washington, 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 Marie Liberti and Michael Liberti is hereby granted to allow a height variance of 1'-8 ¾" in conformity with the plans submitted to this Board as amended at the hearing.;

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

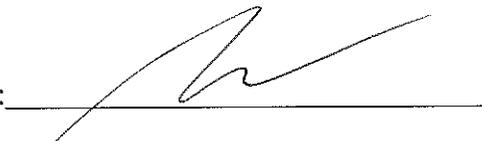
is not commenced, however, this Board reserves the right to grant extensions of time from this Resolution if circumstances warrant the same;

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 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.

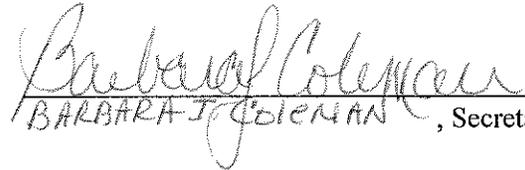
BY THE BOARD

Dated: June 18, 2019

BY: _____


Frédéric 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 J. COLEMAN, Secretary

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