

**BOROUGH OF EMERSON
MUNICIPAL LAND USE BOARD**

**RESOLUTION APPROVING THE APPLICATION OF
STEPHEN AND AMANDA RICCARDI FOR RESIDENTIAL SITE IMPROVEMENT WITH
VARIANCE APPROVAL RELIEF FOR THE PREMISES LOCATED AT
46 LONGVIEW DRIVE, EMERSON, NJ
DESIGNATED AS BLOCK 1016, LOT 9**

**HEARING DATE: January 18, 2024
MEMORIALIZED: February 1, 2024**

WHEREAS, Stephen and Amada Riccardi (hereinafter “Applicants”) applied to the Borough of Emerson Municipal Land Use Board (hereinafter “Board”) for residential site improvement with applied variance approval relief to remove an existing masonry front stoop and steps in order to construct a new and covered porch with steps, for the residential property located at 46 Longview Drive, Emerson, New Jersey and also respectively identified on the Borough of Emerson Tax Map as Block 1016, Lot 9 (“Property”); and

WHEREAS, Applicant was self-represented; and

WHEREAS, the Board, at its January 18, 2024 meeting, reviewed Applicant’s submittal and at which time, proper public notice to all property owners within two hundred (200) feet therefrom and publication in the official newspaper of the Municipality, at least ten (10) days preceding the date of hearing, was confirmed and Applicants’ file was deemed complete; and

WHEREAS, testimony was received at the January 18, 2024 hearing, but not limited to, from the following;

1. Owner, Stephen Riccardi
2. Vincent J. Laino, A.I.A.

WHEREAS, the Applicant submitted the following documents in support of its Application prior to the Hearing:

- a. An unsigned and unsealed architectural plan consisting of seven (7) sheets, entitled “Residence, Stephen & Amanda Riccardi, 46 Longview Drive, Emerson, NJ 07630, Tax Lot 9, Block 1016”, prepared by Vincent J. Laino, A.I.A., of Green Light Architecture + Interior Design, dated November 15, 2023, last revised December 4, 2023.
- b. A signed and unsealed copy of the property survey entitled. “Survey of Property Tax Lot 9, Block 1016, 46 Longview, Borough of Emerson, Bergen County, New Jersey”,

prepared by Marc J Cifone, PLS, and Jeffrey O. Males, PLS, of Lakeland Surveying, dated September 17, 2015.

- c. A copy of the Borough of Emerson Application for Development, undated.
- d. Borough of Emerson Appeal to Municipal Land Use Board
- e. A copy of the Land Use Application Packet Tree Management Form, dated December 27, 2023.

WHEREAS, the following additional documents also were marked for review and accepted into evidence; and

Exhibits January 18, 2024 Hearing

A-1 Architectural Plan - "Residence, Stephen & Amanda Riccardi, 46 Longview Drive, Emerson, NJ 07630, Tax Lot 9, Block 1016", prepared by Vincent J. Laino, A.I.A., of Green Light Architecture + Interior Design, dated November 15, 2023, last revised December 4, 2023.

WHEREAS, this matter was opened to the public at the January 18, 2024 hearing, and whereas no members of the public spoke in opposition of the Application at said hearing, this matter was closed to the public; and

WHEREAS, pursuant to N.J.S.A. 40:55D-10g, a decision must be reduced to writing and shall include findings of facts, based upon the evidence presented at its public hearings; and

WHEREAS, the Board has made the following findings of fact and conclusions of law.

NOW THEREFORE BE IT RESOLVED by the Municipal Land Use Board of the Borough of Emerson that the following facts are made and determined:

FINDINGS OF FACT

1. The Property is located at 46 Longview Drive, Emerson, New Jersey, Block 1016, Lot 9, in the R-10 Residential Single Family Zone.

2. The Applicant is the owner of the subject Property, and therefore has standing to bring this matter before the Board.

3. The Applicant provided proper mailed and published notices of the hearing, and jurisdiction is proper in the Board.

4. The Applicant seeks Minor Site Plan with Variance approval to remove an existing masonry front stoop and steps in order to construct a new and covered porch with steps, the premises of 46 Longview Drive, Emerson, New Jersey ("Project").

5. The Application results in a non-conforming lot requiring the following “c” bulk variance relief:

A. “Minimum Front Yard Setback” Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance §290-2, Attachment 2- Schedule 1: Lot, Yard, Height and Setback Requirements.

25 feet is required and 12.7 feet is proposed. While creating a non-conforming use requiring “c” bulk variance relief, the Project does not alter an existing condition of the Property

B. “Maximum Building Coverage” Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance §290-2, Attachment 2- Schedule 1: Lot, Yard, Height and Setback Requirements.

25.0 percent is permitted, 25.4 percent is proposed. While creating a non-conforming use requiring “c” bulk variance relief, the Project works to improve alleviate drainage and stormwater runoff in the Property and surrounding property parcels which are positioned adjacent to the Property, by way of a reduction in the Property’s impervious coverage from 10.1 percent to 9.5 percent, or a 61 square foot decrease.

C. “Minimum Side Yard Setback for Utility Shed” Variance pursuant to N.J.S.A. 40:55-D-70c and further specified by the conditions of Ordinance §290-2, Attachment 2- Schedule 1: Lot, Yard, Height and Setback Requirements.

Applicant is showing a utility shed situated zero (0) feet from the side yard lot line. A minimum of 3 feet is required. While still a non-conforming use requiring “c” bulk variance relief, the Project does not alter an existing condition of the Property

6. The Applicants called owner, Stephen Riccardi, as their first witness. Mr. Riccardi testified that he currently owns the existing property at 46 Longview Drive in Emerson, New Jersey, and is desirous of maintaining residency in the municipality. Mr. Riccardi testified as to his awareness of the comments, remarks and recommendations contained with the December 4, 2023 revised architectural plans of Vincent J. Laino, A.I.A. Stephen Riccardi further testified as to his willingness to abide by and maintain the Property in accordance with the comments and specifications set forth in said architectural plans as presented to the Board on January 18, 2024.

7. The Applicant called Architect, Vincent J. Laino, as its second witness. Mr. Laino testified that the proposed Project presents as a removal of an existing masonry front stoop and steps in order to construct a new and covered porch with steps. Mr. Laino further testified that

the Property's existing side yard setback, as measured from its existing utility shed, while presently non-conforming as it measures zero (0) feet, shall remain unchanged. Mr. Laino also testified that while the building's coverage will expand from 25 percent to 25.4 percent of the lot size, the overall impervious coverage shall be reduced from 10.1 percent to 9.5 percent of the total lot size, so as to partially reclaim some area which is presently covered by impervious material. Mr. Laino also indicated concurrent to as to Applicants' willingness to abide by and maintain the Property in accordance with the comments and specifications set forth in the architectural plans of December 4, 2023.

8. The combined testimony of Stephen Riccardi and Vincent J. Laino, A.I.A. presented that if the "c" variances were granted, the positive criteria of the proposed Project outweighs any negative criteria, and that the application can be granted without any substantial detriment to the public good. The Project represents a positive reinvestment of a longstanding use, with little to no negative impact. Further, as an ancillary and unintended benefit, the Project would, by reducing the percent of impervious coverage from 10.1 percent presently existing upon the parcel identified as Block 1016, Lot 9, to 9.5 percent upon said parcel, modestly improve the stormwater runoff and drainage capability of the Property.

9. The matter was opened to the public generally to comment either in favor of or against the Application. There was no public comment.

BE IT FURTHER RESOLVED by the Municipal Land Use Board of the Borough of Emerson that based upon the above findings of fact, that the following conclusions are made and determined.

CONCLUSIONS OF LAW

1. The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq, gives the Board the power when reviewing applications for bulk variances, to grant variances in accordance with N.J.S.A. 40:55D-70(c). In order for the Board to grant variances, however, the applicant must demonstrate either: (1) hardship arising out of exceptional narrowness, shallowness, shape or exceptional topographic conditions of a specific piece of property; or (2) that the purposes of the Municipal Land Use law would be advanced by a deviation from the requirements of the ordinances and that the benefits of granting a variance would outweigh any detriment to the public good (the "positive criteria"). The applicant must further demonstrate that granting the requested variance relief will not impair the intent and purposes of the zone and master plan and the zoning land use ordinances (the "negative criteria"). As in all variance cases, the applicant has the burden of establishing both criteria to the satisfaction of the Board.

2. The Board has considered the Application seeking relief from existing “c” variances.

3. The Board, voting unanimously in favor of the Application, (with the exception of Board Member Khiami, who abstained) concludes that the relief pertaining to the “c” bulk variance relief can be granted without substantial detriment to the zoning plan and zoning ordinance of the Borough of Emerson, nor substantial detriment to the public good.

4. The Board finds that the proposed use is compatible with the character of the area in which the Property is located, and the approval of the variances will not change the character of the neighborhood, which has been zoned as a Residential Single Family Zone.

5. The Board finds that the proposed Project meets the objectives of the Borough of Emerson 2007 Master Plan and the 2015 Master Plan Amendment because the Project improves the site overall.

6. The Board further finds that the Applicants met their burden of demonstrating that the “c” bulk variances can be granted without substantial detriment to the public good, while not substantially impairing the intent and purpose of the zoning plan and zoning ordinance.

7. As the Application seeks “c” bulk variances, the MLUL requires an affirmative five (5) votes to approve the application.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Land Use Board of the Borough of Emerson, for the foregoing reasons as well as those stated on the record by the Board members, which are incorporated herein by reference, approves the within application for residential approval with applicable “c” bulk variance and/or waivers permitting the addition to and the alteration of the residential Property located at 46 Longview Drive, Emerson, New Jersey, and also identified on the Borough of Emerson Tax Map as Block 1016, Lot 9, all in accordance with the plans and testimony submitted to the Board, subject to the following conditions:

1. Applicants shall provide an affidavit from the architect of record representing that the nonconforming use expansions are consistent with final approved plans

2. Adherence to all representations made by the Applicants and the documentary materials submitted by the Applicants’ architect prior to and during the course of the public hearing, which representations are made conditions of the within approval.

3. Adherence to plans, renderings and engineering drawings and other exhibits submitted by the Applicants. Any deviation from such submissions shall require the Applicants to return to the Board for further review and any necessary approvals.

4. The Applicants shall conform with all requirements of the Construction Official, Board Engineer, Police and Fire Departments and any other official having jurisdiction with respect to the use of the subject premises.

5. Applicants shall be responsible for any other governmental approvals associated with the site.
6. All testimony given by the Applicants and Applicants' professionals in accordance with this application shall be binding.
7. The Board shall maintain jurisdiction of the application as to any of the conditions above in which Applicants seeks clarification or amendment.
8. Applicants shall provide "as built" plan to the Emerson Construction Department upon the completion of the Project.
9. Applicants shall be responsible to obtain a certificate of occupancy for the newly renovated area prior to the habitability of same.

The undersigned, Secretary of the Municipal Land Use Board of the Borough of Emerson, hereby certifies that the above is a true copy of a Resolution duly memorialized by said Board on January 18, 2024 and that the within Resolution was adopted by the Board and memorialized pursuant to N.J.S.A. 40:55D-10(g)

Approval Motioned January 18, 2024 by: Mayor DiPaola

Seconded by: Paul Hulburt

Ayes: :7,

Nays: 0

Abstentions: 1,

Resolution Approved

Motioned February 1, 2024 by: Councilman Timmerman

Seconded by: Mr. Taub

Ayes: 4

Nays: _____ 0

Abstentions: 0

Marie Shust, Secretary
Borough of Emerson
Municipal Land Use Board

Jeff Bischoff, Chairman
Borough of Emerson
Municipal Land Use Board