

Holland Township Board of Adjustment

Minutes of the February 28, 2018

The meeting was called to order by the Chairman, William Martin:

“I call to order the February 28, 2018 Regular Meeting of the Holland Township Board of Adjustment. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary December 21, 2017 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 21, 2017 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only.

Flag Salute:

Chairman Martin asked all too please stand for the Pledge of Allegiance.

Identification of those at the podium for the benefit of the recording machine:

Present: Jerry Bowers, Ginger Crawford, Bill Ethem, Peter Kanakaris, William Martin,. David Pierce, Esq. and Maria Elena Jennette Kozak, Secretary.

Absent: Laura Burke, Gail Rader, Robert Martucci, Engineer, Darlene Green, Planner, Elizabeth McKenzie, Alternate Planner and Court Reporter Lucille Grozinski, CSR.,

Let the record show there is a quorum.

Minutes: A motion was made by Bill Ethem and seconded by Ginger Crawford, to dispense with the reading of the October 25, 2017 minutes and to approve as recorded. All Present were in favor of the motion with the exception of Peter Kanakaris who abstained. Motion carried.

A motion was made by Peter Kanakaris and seconded by Ginger Crawford, to dispense with the reading of the January 31, 2018 minutes and to approve as recorded. All Present were in favor of the motion. Motion carried.

Completeness

There were no Completeness Reviews scheduled.

Public Hearing

There were no Public Hearings scheduled.

Resolution

Kathleen Sciarello – Block 14 Lot 70 – 5 Amsterdam Road - Variance Relief-hardship – porch on an existing house. Received into our office November 9, 2017. The 45-day completeness deadline was December 24, 2017. Scheduled completes review December 13, 2017. Extension granted. Completeness review scheduled January 31, 2018. Deemed complete January 31, 2018. Public Hearing January 31, 2018 – application approved with conditions. Attorney authorized to prepare the resolution. Resolution distributed for review. Board Action Needed to memorialize the resolution.

RESOLUTION 2018-001

**THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF HOLLAND**

**RESOLUTION APPROVING THE APPLICATION
FOR A FRONT YARD SETBACK VARIANCE FOR BLOCK 14, LOT 70,
LOCATED ON 5 AMSTERDAM ROAD,
BY APPLICANT, KATHLEEN P. SCIARELLO**

WHEREAS, the Kathleen P. Sciarallo, 97 Crab Apple Hill Road, Milford, New Jersey (the “Applicant”) has applied to the Holland Township Board of Adjustment (the “Board”) for variance relief for, and is the owner of, Block 14, Lot 70, located on 5 Amsterdam Road, in the Township of Holland, County of Hunterdon, State of New Jersey (the “Subject Property”);

WHEREAS, The Subject Property is situated in Holland Township’s Residential “R-5” zone;

WHEREAS, the application, dated November 9, 2017, was filed on or about November 9, 2017 (the “Application”);

WHEREAS, the Applicant proposes to erect a porch on the front and side of the existing dwelling situated on the Subject Property;

WHEREAS, the Applicant seeks the following relief from the Township of Holland Land Use Ordinance:

1. Variance relief under N.J.S.A. 40:55D-70c(1) from Section 100-109A, the requirement to provide a front yard setback of 50 feet; and
2. Such other variance relief as may be determined to be required to permit the proposed project.

WHEREAS, the current Application was the subject of a completeness hearing on Wednesday, January 31, 2018, at which time the Board, on recommendation of the Board Engineer, deemed the Application complete;

WHEREAS, the following documents were submitted with regard to the application, are on file with the board, and are part of the record in this matter:

1. Application for Variance Relief , dated November 9, 2017, and filed on November 9, 2017, including the following:
 - a. Boundary Line Plat of the Subject Property;
 - b. Site Walk Authorization;
 - c. Escrow Replenishment Agreement;
 - d. Certification that the subject Property is located within the Boundaries of the Highland Preservation Area;

- e. Fee Calculation Form;
 - f. IRS Form W-9;
 - g. Exhibit A – Photographs of the current dwelling;
 - h. Exhibit B – Google Earth map of the Subject Property and surrounding area;
 - i. Exhibit C - Google Earth map of the Subject Property;
 - j. Exhibit D – Floor Plan of existing dwelling;
 - k. Exhibit E Historical photographs of the Subject Property;
 - l. Exhibit F – Photographs of other properties in the surrounding area with porches;
 - m. Exhibit G – Photograph of the view from the Subject Property;
 - n. Exhibit H - Google Earth map of the Subject Property and surrounding area;
 - o. Tax Collector’s Certified List of Property Owners;
 - p. Correspondence dated October 26, 2017, from Lawrence D. Creveling, Holland Township Zoning Officer denying Applicant’s requested relief;
 - q. Holland Township Tax Collector’s “Certification of Paid Taxes” dated November 2, 2017, referencing the Subject Property’s current property tax status;
 - r. Section “H” Checklist for Determining Completeness;
 - s. Hunterdon County Health Department Construction Permit Referral Form, dated November 2, 2017 and approved November 2, 2017;
 - t. Plan of Survey prepared by Wayne J. Ingram, dated December, 2017;
 - u. Plot Plan prepared by Wayne J. Ingram, dated December 4, 2017;
 - v. Deed for the Subject Property, dated May 30, 2017 and recorded in the Hunterdon County Clerk’s office on June 2, 2017 in Deed Book 2404, Page 310;
2. Email correspondence dated November 9, 2017 from the Applicant to Maria Elena Kozak granting an extension of the deadline for determining the completeness of the application;
 3. Holland Township Board of Adjustment Engineer’s completeness review letter dated December 5, 2017;
 4. Holland Township Board of Adjustment Planner’s review memorandum dated January 5, 2018;
 5. Holland Township Board of Adjustment Engineer’s updated completeness review letter

dated January 30, 2018;

6. Proof of Service / Publication Package including Affidavit of Publication dated January 23, 2018 evidencing a January 18, 2018 publication in the *Hunterdon County Democrat*, and the Affidavit of Proof of Service signed by the Applicant;

WHEREAS, the Applicant having satisfied all jurisdictional requirements and the Board having jurisdiction to proceed, a public hearing was held on the Application on January 31, 2018, at which hearing appeared the Applicant, Kathleen P. Sciarello, represented by Gaetano DeSapio, Esq.;

WHEREAS, the following Exhibits were submitted and moved into evidence by the Applicant:

- A-1 Plot Plan – 5 Amsterdam Road, prepared by Wayne J. Ingram and dated December 4, 2017;
- A-2 Two photographs of the existing dwelling – top photograph circa 1900 showing the existence of a front porch and the bottom photograph circa 1940 also showing the existence of a front porch;
- A-3 Current photograph of the front of the dwelling showing the lack of a front porch;
- A-4 Current photograph of the front and side of the dwelling showing the lack of a front porch and the area where Applicant desires to construct a wraparound porch;
- A-5 Photographs of various houses within the Amsterdam Historic District showing the presence of various porches in the neighborhood;
- A-6 Architectural rendering of the proposed porch addition, prepared by Eclectic Architecture, dated January 8, 2018;
- A-7 Survey of the subject Property, dated November 13, 1970 and containing a legend noting the dedication of an additional 8.5 feet wide Right-of-Way for future road widening except where existing buildings do not allow;
- A-8 Holland Township Tax Map depicting Amsterdam Road;
- A-9 Email correspondence dated January 6, 2018 from Larry LaFevre of Holland Township Historic Preservation Commission in support of the present application;
- A-10 Email correspondence dated January 6, 2018 from Carl Molter, member of the Holland Township Historic Preservation Commission in support of the present application;

WHEREAS, all jurisdictional requirements have been satisfied by the Applicant;

WHEREAS, the Board of Adjustment of Holland Township having reviewed the Exhibits submitted by the Applicant, and the Board having heard and considered the evidence and testimony given by the Applicant, and members of the public in attendance, and the Board having heard from the Township's professionals, Robert Martucci, P.E., Elizabeth C. McKenzie, A.I.C.P., P.P., and David R. Pierce, Esq., with respect to the Application, the Board makes the following findings of fact:

1. The Board has jurisdiction to proceed as all necessary notices were served and published in accordance with law;
2. All taxes for the Subject Property have been paid;
3. Application fees were paid and review escrows established;
4. The Applicant, as the Owner of the Subject Property was authorized to seek the relief herein requested;
5. The Application has been deemed complete;
6. Kathleen Sciarello, after being duly sworn according to law, testified during the hearing, and which testimony is part of the record in this matter, that:
 - A. She is the owner of the subject Property, having inherited same from her father;
 - B. The Subject Property was originally part of a 49 acre parcel of land and has been owned by the Applicant's family since the mid-19th century.
 - C. The existing dwelling was built in or around 1840 and, at various times in the past, included a porch on the front of the house.
 - D. The front yard setback required for the Subject Property is fifty feet and the existing dwelling is located almost entirely within the front yard setback.
 - E. The Applicant proposes to construct a new porch on the front and side of the house.
 - F. The construction of a porch on the front of the dwelling requires a variance because it will increase the encroachment into the front yard setback.
 - G. The construction of a porch on the side of the house does not require any variance relief.
 - H. The porch proposed by the Applicant would be consistent with other porches and dwellings located in the surrounding neighborhood.
 - I. The Subject Property is located within the Amsterdam Historic District and

the application was referred to the Holland Township Historic Preservation Commission for review. The Holland Township Historic Preservation Commission submitted correspondence “thoroughly and enthusiastically” supporting the proposed porch addition.

- J. The architectural rendering depicts a proposed porch extending 6 feet 4 inches from the front of the house, extending to match the bump out for the kitchen existing on the west side of the front of the dwelling. The Applicant’s floor plan shows the proposed addition extending 6 feet 7 inches from the front of the dwelling. The Applicant testified, however, that she was requesting some latitude in the exact size of the proposed porch since she might encounter prior foundations that could require her to modify the dimensions of the proposed porch and indicated that the proposed porch, including the limit of the roof overhang, would not extend more than 5 feet to the south past the southernmost edge of the kitchen.
- K. Exhibit A-7 notes the dedication of an additional 8.5 foot wide right of way for future road widening purposes along Amsterdam Road. The Applicant testified that she was not able to confirm the actual dedication of this additional right of way, indicating that there is no reference to this additional right of way in any of the deeds for the Subject Property.
- L. The language for the additional 8.5 foot wide right of way expressly exempts the locations where existing buildings are located and it is unlikely to be applicable to the front of the subject Property because there is an existing barn situated within that area.
- M. Regardless, the proposed porch will not encroach into the potential additional right of way.
- N. The construction of the proposed porch will replicate a previously existing and historically consistent condition at the Subject Property although it has not existed for approximately 70 years.

7. No testimony was presented in opposition to the Application.

WHEREAS, the Board of Adjustment of Holland Township, having reviewed the Exhibits submitted by the Applicant, and having heard and considered the evidence and testimony given by

the Applicant and the Applicant's attorney, and having heard from its own professionals with respect to the Application, hereby makes the following **Conclusions of Law**:

1. The Board of Adjustment of Holland Township has jurisdiction in this matter with all required parties having been properly noticed in accordance with law;
2. The existing dwelling situated on the Subject Property constitutes a lawfully pre-existing, non-conforming structure;
3. Section 100-109A provides that the applicable front yard setback for the Subject Property is 50 feet;
4. **"C" Variance:** N.J.S.A. 40:55D-70c, and specifically, N.J.S.A. 40:55D-70c(1) and (2), establishes the Applicant's burden with respect to satisfying both the positive and the negative criteria attendant to this Application. To satisfy the "positive" criteria, the use must demonstrate either that: a) there is a hardship or practical difficulty to the developer in complying with a standard in the ordinance due to the exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or some other extraordinary or exceptional situation uniquely affecting the property itself or the structures lawfully existing upon it; or b) the granting of the variance would promote some purpose of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., and the benefits of approving the variance would substantially outweigh any detriment;
5. **The Positive Criteria / Promote Purposes of Zoning :** The Board found as a matter of law that, provided the conditions imposed are complied with, the proposed addition promotes purpose "a" of the Municipal Land Use Law by promoting the public health, safety morals and general welfare and purpose "j" by promoting the conservation of historic sites and districts;
6. **The Negative Criteria / Substantial Detriment to the Public Good:** The Board finds as a matter of law that the proposed construction of a porch at Subject Property will not result in any substantial detriment to the public good for several reasons. First, the Subject Property is located on a lightly used rural road and there is little likelihood, if any, that the full extent of the right of way of Amsterdam Road will ever be utilized. Second, future development of this area is severely restricted because Holland Township has opted into compliance with the Highlands Regional

master Plan for areas within the Planning Area. As a result of the foregoing, there is little potential for interference with road improvement policies now or in the future should the variance be granted;

7. **The Negative Criteria/Substantial Impairment of Intent and Purpose of the Zone Plan and Zoning Ordinance:** The Board finds as a matter of law that the granting of the requested variances will not substantially impair the intent and purpose of the zone plan and Land Use Ordinance of Holland Township for several reasons. First, the Subject Property is located on a lightly used rural road and there is little likelihood, if any, that the full extent of the right of way of Amsterdam Road will ever be utilized. Second, future development of this area is severely restricted because Holland Township has opted into compliance with the Highlands Regional master Plan for areas within the Planning Area. As a result of the foregoing, there is little potential for interference with road improvement policies now or in the future should the variance be granted
8. **Weighing the Benefits Against the Detriments** The benefit resulting from the approval of the application, specifically, the preservation of more historically accurate and faithful structures within the Amsterdam Historic District, clearly outweighs any potentially negative impact on Holland Township, although no substantial negative impact was noted by the Board.

WHEREAS, on January 31, 2018 , the Board of Adjustment of Holland Township voted with respect to the Application and the attendant requested relief as follows:

1. **TO GRANT THE FOLLOWING:**
 - A. Variance pursuant to N.J.S.A. 40:55d-70c(2) Section 100-109A of the Land Use Ordinance to permit the construction of porch on the front of the existing dwelling situated on the Subject Property, in accordance with the Exhibits, submissions and testimony presented on the record at the hearing.
2. **SPECIFICALLY CONDITIONED UPON THE FOLLOWING:**
 - A. Prior to the signing of plans:
 - 1) The Applicant shall present the results of a title search showing whether or not the additional 8.5 foot wide Right of Way for future road widening purposes exists in the chain of title. If the additional 8.5 foot wide Right of Way for future road widening purposes is not

shown of record in the title search, then the Applicant shall submit a Plot Plan revised to eliminate mention of that additional 8.5 foot wide Right of Way for future road widening purposes;

- 2) The Applicant shall provide a detailed description of materials of construction which has been approved by the Holland Township Historic Preservation Commission;
- 3) The final drawing and detailed plans of the proposed porch showing details required to meet the requirements of the construction code and sub code officials shall be submitted to and approved by the Board engineer prior to the issuance of any building permits. The final plans shall show a porch addition of approximately 6 feet seven inches with the limit of the roof overhang, not extending more than 5 feet to the south past the southernmost edge of the kitchen;

B. Prior to the start of construction:

- 1) The applicant shall post the required performance guarantee, if any, and inspection escrow fees in accordance with the Board Engineer's calculations. The form of guarantee shall be approved by the Township Attorney;
- 2) A preconstruction conference shall be scheduled and held at the Holland Township Municipal Building;
- 3) All permits shall have been issued by the Township Construction Official for all items under his jurisdiction;
- 4) All site work shall be inspected by the Board Engineer or his designee for conformance with the approved site plan. Any proposed deviations from the approved site plan must be either pre-approved by the Board Engineer as field changed, or shall be resubmitted to and approved by the Zoning Board, if the deviations are deemed by the Board Engineer to be significant enough to require such approval.

C. The Applicant shall submit an as-built plan after completion of the proposed porch and showing the appropriate Right of Way designation as evidenced by the title search;

- D. This approval shall be subject to all State, County and Township statutes, ordinances, rules and regulations affecting development in the Township, County and State;
- E. The approval herein memorialized shall not constitute, nor be construed to constitute any approval, direct or indirect, of any aspect of the site plan, or of the proposed improvements which is subject to the jurisdiction of any third party agencies and require review and approval(s) by any third party agencies;
- F. Applicant shall apply for and obtain any and all Township, County, State and Federal permits as may be required for any aspect of the construction as contemplated by this Application;
- G. Applicant shall comply with all other applicable rules, regulations and ordinances of the Township of Holland, the effect of this decision being merely to relax the zoning requirements and restrictions to the specific extent forth herein;
- H. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the approvals, terms and conditions set forth herein;
- I. The variance relief granted herein shall expire unless such construction or alteration permitted by the variance relief has actually commenced within six (6) months from the date of this Resolution;
- J. That Applicant shall pay all outstanding and /or required review, inspection, and professional escrow fees to the Township of Holland. Neither the Board nor its employees or professionals shall perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The Applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions of this Resolution have been satisfied and all charges have been paid;
- K. All performance requirements as set forth in the findings of fact herein shall be satisfied by the Applicant as a condition of this approval whether or not repeated at length as conditions in this section of the Resolution; and

L. The terms and conditions of this approval shall be binding upon the Applicant, and the Applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the Application and the Subject Property in its entirety, and the non-compliance with any term or condition by the Applicant or their successors or assigns shall be deemed a material default subjecting the Application to revocation of this approval. The request to change any single condition, since all conditions are integrally related, shall cause the entire Application to the Board of Adjustment to be reopened for re-consideration and possible re-approval subject to new terms and conditions in addition to those terms and conditions presently existing in this approval.

ROLL CALL VOTE

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Jerry Bowers		X	X			
Laura Burke						X
Ginger Crawford			X			
Bill Ethem			X			
Peter Kanakaris	X		X			
William Martin			X			
Gail Rader			X			

Motion Carried By Vote of: Six Ayes to Zero Nays

THIS RESOLUTION OF THE BOARD IS ADOPTED ON FEBRUARY 28, 2018

ROLL CALL VOTE

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Jerry Bowers						
Laura Burke						X
Ginger Crawford						
Bill Ethem						
Peter Kanakaris						
William Martin						
Gail Rader						

Motion Carried By Vote of:

ATTEST:

Maria Elena Jeanette Kozak, Secretary
Township of Holland Board of Adjustment

William Martin , Chairman
Township of Holland Board of Adjustment

There was limited discussion regarding the proposed resolution other than it was comprehensive. A motion was made by Jerry Bowers and seconded by Peter Kanakaris to memorialize the resolution proposed for Block 14 Lot 7, 5 Amsterdam Road for Variance relief (hardship) for a porch on an existing house. At a roll call vote, all present were in favor of the motion. Motion carried.

Applicant Sciarello thanked everyone present.

Old Business

There was no Old Business to be discussed.

New Business:

There was no New Business to be discussed

Public Comment

There were no Public Comments.

Bill Ehem made a motion to adjourn. Motion carried.

Meeting ended at 7:40 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Secretary