

**BERNARDS TOWNSHIP  
BOARD OF ADJUSTMENT  
MINUTES  
Special Meeting  
May 13, 2010**

The Vice Chair, in the absence of the Chairman, called the regular meeting to order at 7:30 p.m.

**ROLL CALL:**

Members present: Lasko, Miller, Ross, Schulenburg, Rhatican

Members absent: Orr, Viola

Members late: Plaza (8:00 p.m.)

Board Attorney Steven Warner, Esq., Board Engineer Peter Messina, and Board Planner David Schley were also present.

**OPEN MEETING STATEMENT**

“In accordance with the requirements of the Open Public Meetings Law, notice of this regular meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Bernards-ville, NJ, the Courier News, Bridgewater, NJ, and the Star-Ledger, Newark, NJ and was filed with the Township Clerk all on January 11, 2010. We received no requests for individual notice.

“The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 p.m. and no new witnesses or testimony heard after 10:30 p.m.”

**APPROVAL OF RESOLUTIONS**

**RESOLUTION – Tancredi, David & Kelly – Block 7302, Lot 8 – Bulk Variances**

The motion was made by Mr. Lasko and seconded by Mr. Ross to approve the resolution as drafted.

Roll call:

Aye: Lasko, Miller, Ross, Rhatican, Schulenburg

Motion carried

**RESOLUTION – Newman, Christopher & Jennifer – Block 5701, Lot 21 – Bulk Variance**

The motion was made by Mr. Miller and seconded by Mr. Ross to approve the resolution as drafted.

Roll call:

Aye: Lasko, Miller, Ross, Rhatican, Schulenburg  
Motion carried

**PUBLIC HEARING – LIBERTY CORNER PRESBYTERIAN CHURCH – Block 7501, Lot 4 – Use Variance, Amended Preliminary and Final Site Plan Approval for Phase II, and Bulk Variances**

Vincent Bisogno, Esq. represented the applicants. He briefly described existing conditions and the site plan approvals received from the Planning Board in 2000. He submitted Exhibit A-1, a colored rendering of Sheet 2 of 8 of the proposed site plan. He noted that they had received three extensions of site plan approval. He said that this application was before this Board for a height variance for the roof of the new sanctuary, (42.9 ft), lot coverage of 35.7%, and for a third sign at the entrance to their parking lot on Church Street. He noted that this application described the phased construction.

He presented James Brown, chairman of the Church's Facilities Management Team who was sworn in with Mr. Schley and Mr. Messina. Mr. Brown described the existing conditions including the education building, the manse and the existing 4600 sq ft sanctuary. He presented Exhibit A-2, a colored rendering of Sheet 6 of 8 showing the proposed new sanctuary of 18,933 sq ft and 600 seats. He said that currently they have three services and they want to reduce these to two. He said church membership is 1100 with 45% of the membership from Basking Ridge. He said the phasing the construction was needed because of finances. He said the Church had acquired an additional lot (511 Lyons Road) and had planned to merge it with Lot 4, hoping to avoid needing a variance for lot coverage. However the Planning Board had concerns about this lot merger. He said the additional sign was needed to direct traffic to the parking lots. He addressed Comment #23 in Mr. Messina's May 10, 2010 memo requesting a list of additional off-site parking spaces. It was noted that this list had not been submitted to the Board as part of the application package.

Mr. Plaza joined the meeting.

Mr. Brown submitted Exhibit A-3, a list of off-site parking available to the Church. Mr. Warner asked that they get a written agreement from Couch Braunsdorf Insurance at 701 Martinsville Road. Board members asked when the additional parking was needed, locations of neighboring properties, and the impact of constructions activities

Mr. Brown discussed Comment #28 concerning the potential for an interior driveway connection with Liberty Corner School. He said the Church had safety concerns with such a connection.

Mr. Brown addressed Comment #27 concerning the additional lot (Block 7501, Lot 10, 511 Lyons Road) that was acquired by members of the Church for the Church. Mr. Messina explained that at one time the Church planned to subdivide the lot and add Lot 10 to the Church's property to help reduce lot coverage. He said that the house is currently vacant. Board members noted that preservation of the streetscape on Lyons Road was important and asked if the church had considered using the house as a manse. Mr. Bisogno said the Church would consider this idea.

Mr. Messina discussed Comment #6 concerning the driveway connection from Lyons Road. The applicant agreed to complete the driveway prior to occupancy of the sanctuary addition (Phase 2A).

Public hearing was opened for questions of this testimony.

- Lorraine Staples, 509 Lyons Road - asked about how the parking lot was used on Sundays. She asked about the location of the third sign and the banners that are currently used.
- Ann Parsekian, Historic Preservation Committee, Historical Society of Somerset Hills – submitted as Exhibit O-1 a copy of Standards for Liberty Corner Historic District. She asked if the steeple of the new sanctuary was part of the site plan the Planning Board approved. She was told it was not.

Hearing no further questions, the public portion of this hearing on this testimony was closed.

Board members discussed the status of the banners referred to by Ms. Staples. They asked if a sign permit for the banner would be applied for. Mr. Bisogno said they were permitted for a church. Board members noted that there were issues concerning their size, location, public safety, and impact on streetscape.

Public hearing was re-opened for questions about this testimony. Seeing none, the public portion of this hearing on this testimony was closed.

William Hollows, PE, Murphy & Hollows, Stirling, NJ was sworn in. He described the Phase 1 construction of the education building and parking lots. He said that Phase II construction was the new sanctuary and new connection to Lyons Road. He said that they had added a new drop off area by the new sanctuary. He noted that the Planning Board had

approved lot coverage of 34.6% in 2000, and the Church subsequently found that their plans called for 37.10%. The current plans reduced lot coverage to 35.7%. He said in his opinion that adding Lot 10 to Lot 4 would not substantially improve lot coverage. Mr. Warner noted that granting a minor subdivision of Lot 10 would also include additional variances in order to create a non-conforming lot.

Mr. Hollows discussed the existing signs. He said that a sign height of 6 ft 10 in. was approved by the PB in 2000. He said the same sign design would be used for the new sign. He agreed to comply with Comments #1 -17 in Mr. Messina's memo. Mr. Messina raised concerns about the proposed island for the Lyons Road entrance. The applicant agreed to remove the island.

Mr. Hollows said the applicant would comply with the recommendations in the April 13, 2010 Environmental Commission memo.

Public hearing was opened for questions of this testimony.

- Frank Hershkowitz, 509 Lyons Road, - asked about the number of required parking spaces. Mr. Messina and Mr. Schley explained how the parking space requirement was calculated.

Hearing no further questions, this portion of the public hearing was closed.

Public hearing was opened for comments on this application.

- Ann Parsekian, Historic Preservation Committee, SHHS – noted that the Master Plan called for the preservation of streetscapes. She said the proposed entrance should look like a driveway. The Committee recommended the planting of native species and no curbing be installed. She noted the Committee's concerns about the visual impact on the Liberty Corner Historic District of the height of the new sanctuary's roof and tower.

Hearing no further comments, this portion of the public hearing was closed.

Mr. Bisogno presented Mr. George Yu, GYA Architects, Philadelphia, PA who was sworn in. Mr. Yu described the current proposal and referred to the 30-page plan set submitted with the application. He said the new sanctuary was slightly reduced in size by 900 sq ft. He presented Exhibit A-4, seven pages of colored renderings showing existing conditions, an elevation, the chapel entrance and floor plans.

Mr. Yu said the proposed steeple on the new sanctuary would be close to the middle of the property and would not cast a shadow on any adjacent buildings. He said it was designed to resemble the steeple on the older sanctuary.

He submitted Exhibit A-5, a materials board showing the exterior materials  
Eric Trainer, architect, GYU Architects, Philadelphia, PA, was sworn in. He and Mr. Yu addressed the architectural comments in Mr. Messina's May 10, 2010 memo. They said that as per Comment #19 the church may install bells, and that as per Comment #20 lighting would be installed on the ground to provide a glow to the steeple. They agreed to comply with all of the comments on architecture.

Mr. Yu addressed the comments in the August 10, 2009 memo from the Historical Preservation Committee of the SHHS. He said the proposed steeple would be subordinate to the existing steeple. He said, as per Comment #19, that the steeple would not be occupied space. He confirmed for Mr. Messina that AC units on the roof of the new sanctuary would not be seen.

Public hearing was opened for questions of this testimony.

- Frank Hershkowitz, 509 Lyons Road – asked if a patio area was included, distances of the new steeple to residences, final grading levels, and the proportions of the steeple.
- Ann Parsekian, Historical Preservation Committee, SHHS – asked about the height of the steeple. She presented Exhibit O-2, copy of the June 10, 2010 and August 14, 2010 Historical Preservation Committee's memos. She and Mr. Yu discussed the appearance of the steeple.
- Lorraine Staples, 509 Lyons Road – asked about bells and lighting on the steeple.

Hearing no further questions, the public portion of this hearing on this testimony was closed.

Mr. Warner announced that the next hearing on this application would be on June 17, 2010, no further notice required.

The Board moved to adjourn the public meeting at 11:10 p.m., there being no further business to discuss.

Respectfully submitted,

Frances Florio  
Secretary to the Board

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF BERNARDS

DAVID AND KELLY TANCREDI  
Case No. ZB09-003

RESOLUTION

WHEREAS, DAVID AND KELLY TANCREDI (the “Applicants”) have applied to the Zoning Board of Adjustment of the Township of Bernards (the “Board”) for the following bulk variances in connection with the expansion of the existing single family dwelling and reconstruction/expansion of a rear deck on property identified as Block 7302, Lot 8 on the Tax Map, more commonly known as 125 Church Street:

(1) A variance for a front-yard setback of 46 feet, whereas the existing front-yard setback is 46 feet (and will not change), and whereas the minimum required front-yard setback in an R-1 (3 acre) residential zone is 100 feet, pursuant to Section 21-15.1(d)(1) and Table 501 of the Land Development Ordinance;

(2) A variance for a minimum side-yard setback on the east side of 10.4 feet, whereas the existing side-yard setback also is 10.4 feet (no change), and whereas the minimum side-yard setback requirement in an R-1 (3 acre) residential zone is 50 feet, pursuant to Section 21-15.1(d)(1) and Table 501 of the Land Development Ordinance;

(3) A variance for a minimum side-yard setback on the west side of 28.4 feet, whereas the existing side-yard setback is 49.25 feet, and whereas the minimum side-yard setback requirement in an R-1 (3 acre) residential zone is 50 feet, pursuant to Section 21-15.1(d)(1) and Table 501 of the Land Development Ordinance; and

(4) A variance for a combined side-yard setback of 38.8 feet, whereas the existing combined side-yard setback is 59.65 feet, and whereas the minimum required combined side-yard setback in an R-3 (1/2 acre) residential zone is 100 feet, pursuant to Section 21-15.1(d)(1) and Table 501 of the Land Development Ordinance; and

WHEREAS, a public hearing on notice was held on such application on May 5, 2010, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicants and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

1. The Board reviewed the application and deemed it to be complete.
2. The subject property is an approximately 2.07 acre exceptionally narrow flag lot fronting on Church Street and is presently improved with a one-story, frame dwelling and a one-story, detached frame garage to the rear of the dwelling.
3. The Applicants propose to expand the existing dwelling by constructing a one-story, approximately 500 square foot addition to the rear, a new attic above the existing dwelling and a reconstructed/expanded rear deck. The addition would include a new kitchen, mudroom and side entry porch, and will connect the dwelling to the existing detached garage.
4. The Applicants' proposal is depicted on architectural plans prepared by Patrick M. Jones, A.I.A., of Majewski/Jones, LLC Architects, dated January 14, 2009, consisting of three (3) sheets (plot plan and notes, elevations and floor plans).
5. The property is located in the R-1 (3 acre) residential zone. The requested variances for the front and side-yard setback deviations fall within the criteria of N.J.S.A. 40:55D-70(c).

6. The Township Environmental Commission, by memo dated January 19, 2010, noted no environmental concerns at that time.

7. The Township Health Department approved the application by memo dated May 26, 2009, recognizing that since the renovated house will have 3 bedrooms and the existing septic system is designed with capacity for same.

8. David Schley, AICP/PP, the Board Planner, was duly sworn according to law.

9. David Tancredi, 125 Church Street, one of the Applicants, was duly sworn according to law and testified generally regarding the Applicants' need for the additional space and the property itself. Mr. Tancredi explained that the dwelling is a three bedroom ranch with a detached two-car garage to the rear of the principal structure. He testified that the original plan submitted to the Board provided for a more substantial addition, including a full second floor, however the Applicants revised their plans to make the addition less intrusive, and instead only are proposing a one-story, approximately 500 square foot addition to the rear of the dwelling. Mr. Tancredi testified that the primary purpose is to provide additional living space for the growing family as well as to connect the detached garage to the principal dwelling so that it does not appear as if there are two separate buildings on the lot. He explained that they are proposing to convert the existing kitchen/dinette area into a master bedroom and bath, and to relocate the kitchen to the new addition which will be built where there is an existing patio.

10. Mr. Tancredi also explained that as part of the proposal they will be reconstructing the roof which was originally built in the mid-1930's, since it is in bad shape with a mold problem. He explained that a new attic space would not be for

purposes of immediate occupancy, but rather for potential future use as second floor living space. Mr. Tancredi explained that he understood that he would have to come back to the Board if there was any further outward expansion of the dwelling, particularly the attic/roof area, and he stipulated as a condition of approval to the Board of Adjustment retaining jurisdiction in such event.

11. Mr. Tancredi further testified that he received only positive feedback from the neighbors with whom he discussed the Applicants' proposal, including the owners of the lot immediately to the west of the subject lot who would be most affected by the proposed addition.

12. Patrick M. Jones, AIA, of Majewski & Jones, LLC, 20 Valley Street, Suite 310, South Orange, New Jersey 07079, was duly sworn according to law and testified on behalf of the Applicants. Mr. Jones was accepted by the Board as an expert in the field of architecture, having been previously so accepted by the Board on multiple occasions. Mr. Jones referenced the engineering drawings and characterized the subject premises as being an undersized lot as to total area, lot width and lot frontage.

13. Mr. Jones reiterated the Applicants' description of the proposed addition and the purpose for same. He further reiterated that the only setback reduction would be an approximately 20 foot reduction to the west side yard (resulting in a corresponding combined side-yard setback reduction), and that same was more of a technical setback reduction than an actual one since the existing 28.4 feet between the west side-yard property line and the existing detached garage would not be reduced, but rather the connection of the detached garage to the principal dwelling is what would result in the technical, but not actual, decrease in the west side-yard setback.

14. Mr. Jones introduced into evidence as Exhibit A-1, architectural drawings designated as PC101, depicting the existing elevations from the front, rear, east and west sides. He also introduced into evidence as Exhibit A-2, architectural drawings designated as PC102, depicting the existing first floor and basement floor plan. Mr. Jones referenced Exhibits A-1 and A-2, as well as Sheet BOA3 of the plans submitted with the application materials, in order to explain to the Board and the public the specific details of the proposed addition. He reiterated Mr. Tancredi's testimony that the kitchen/dinette area will be located in the new addition where the patio between the detached garage and the principal dwelling is currently located, and that the original kitchen area will become a master bedroom and bath with a short hallway leading to the other bedrooms. He also explained the second floor attic addition and roof reconstruction, and opined that there will be aesthetic benefits, including a better pitch to the roof. He also opined that there will be a further aesthetic benefit since there will be one combined structure on the lot, rather than two detached structures.

15. On questioning by a Board Member, Mr. Jones and Mr. Tancredi explained that there will be no change to the garage itself, and that the Applicants did not intend at this time to install utilities, such as plumbing, or run ducts into the unfinished second floor attic area.

16. On questioning by Board Members, Mr. Jones and Mr. Tancredi explained the extent to which they anticipated excavation and the construction of additional subterranean basement as a result of the addition. They explained that the additional basement area under the proposed addition would be at a depth of approximately 7 feet. The plan as proposed appear not to exceed "partial destruction", as set forth in Section

21-11.2.b of the Land Development Ordinance, such that the Applicants do not require further variance approval and the project would not be subject to a development fee in accordance with Section 21-76.16 of the Land Development Ordinance. Nevertheless, the Applicants stipulated, as a condition of approval, that if it is later determined that more of the existing structure must be replaced in order to safely accommodate the new construction, they may have to return to the Board to request further variance approval for the pre-existing lot size deviations.

17. Mr. Jones testified that he took all of the photographs that were submitted with the application materials, further explaining that he took the photographs of the subject property in about March of 2007 and the photographs of the surrounding dwellings in about March of 2008.

18. The Applicants stipulated, as further conditions of approval, to providing the Township with a conservation easement, delineated with Township standard markers, for the wetlands/wetlands transition area at the rear of the property, and maintaining the front and side porches as open porches, *i.e.*, covered with a roof but open on the side except for columns/open railings, and the rear deck remaining an open deck, all as proposed.

19. No member of the public commented on, or objected to, the application.

20. After reviewing the evidence submitted, the Board, by a vote of 7 to 0, found that the Applicants have satisfied their burden of proving an entitlement to the requested variance relief under both N.J.S.A. 40:55D-70(c)(1) and N.J.S.A. 40:55D-70(c)(2).

21. First, under the “(c)(1)” or “hardship” criteria, the Board finds that the Applicants have satisfied their burden of demonstrating that strict application of the zoning regulations will result in peculiar and exceptional difficulties to, or exceptional and undue hardship upon, them as the owners of the subject property. The Board finds that due to the narrowness of the pre-existing undersized lot and the existence of wetlands to the rear of same, the Applicants lot contains a very small building envelope, which is less than 10 feet wide. Further, the entire existing dwelling is located outside of the building envelope, making a conforming addition impossible.

22. Second, with respect to the positive criteria for a “c(2)” or “flexible c” variance, the Board finds that the Applicants have satisfied their burden of demonstrating that the purposes of the Municipal Land Use Law will be advanced by the requested deviations from the zoning requirements and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. The proposed development will provide a desirable visual environment, enhance the visual compatibility of the property with adjoining properties and otherwise promote the general welfare.

23. By contrast to these substantial benefits, the Board finds that the detriments associated with the proposed development will be minimal. The proposed rear addition is further from all property lines than the pre-existing dwelling and garage. Moreover, the proposed attic (raised roof) will vertically extend, but not reduce, the pre-existing non-conforming setbacks of the existing dwelling. The Board also recognizes that the proposed addition will not exacerbate the existing front-yard or east side-yard setbacks. Moreover, the reduction in the side-yard setback on the west side of the

property is a technical, rather than actual, setback reduction, results in no additional massing and did not prompt objection by the owners of the neighboring lot immediately to the west of the subject property.

24. Third, and finally, the Board finds that the Applicants have satisfied the negative criteria, that is they have demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the Board took action on this application at its meeting on May 5, 2010, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Bernards, on the 5<sup>th</sup> day of May, 2010, that the application of David and Kelly Tancredi, for variance relief as aforesaid, be and is hereby granted, subject to the following conditions:

- (1) The Applicants shall post sufficient funds with the Township to satisfy any deficiency in the Applicants' escrow account;
- (2) The Applicants shall provide the Township with a conservation easement, delineated with Township standard markers, for the wetlands/wetlands transition area at the rear of the property. The easement is subject to review and approval by the Township Engineer and Township Attorney and must be recorded with the Somerset County Clerk, and the markers installed or bonded for, prior to the issuance of a building permit;
- (3) The Applicants shall maintain the front and side porches as open porches, *i.e.*, covered with a roof but open on the side except for columns/open railings, and the rear deck shall remain an open deck, all as proposed;
- (4) If it is later determined that so much of the existing structure must be replaced in order to safely accommodate the new construction so as to render the required work to exceed "partial destruction" as defined in

Section 21-11.2.b of the Land Development Ordinance, then the Applicants shall return to the Board to request further variance approval, and the Board retains jurisdiction of this matter for such purpose and all related purposes;

- (5) The Applicants shall not outwardly expand the attic/roof area without further variance relief and the Board retains jurisdiction over this property for such purposes;
- (6) 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 terms and conditions set forth herein;
- (7) The aforementioned approval also shall be subject to all State, County and Township statutes, ordinances, rules and regulations regarding development in the Township, County and State; and
- (8) Pursuant to Section 21-5.10 of the Land Development Ordinance, the variance granted herein shall expire unless such construction or alteration permitted by the variance has actually commenced within one year of the date of this Resolution.

ROLL CALL VOTE:

Those in Favor: Lasko, Miller, Ross, Schulenburg, Viola, Rhatican, Orr

Those Opposed: none

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Bernards at its meeting on May 13, 2010 as copied from the Minutes of said meeting.

ADJUSTMENT

---

FRANCES FLORIO, Secretary  
ZONING BOARD OF

OF THE TOWNSHIP OF  
BERNARDS, COUNTY OF  
SOMERSET,

Dated: \_\_\_\_\_, 2010

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF BERNARDS

CHRISTOPHER AND JENNIFER NEWMAN  
Case No. ZB10-008

RESOLUTION

WHEREAS, CHRISTOPHER AND JENNIFER NEWMAN (the “Applicants”) have applied to the Zoning Board of Adjustment of the Township of Bernards (the “Board”) for the following bulk variance in connection with the construction of an approximately 45 square foot covered, open porch over an existing uncovered front stoop, which is to be rebuilt, on the front of the dwelling on property identified as Block 5701, Lot 21 on the Tax Map, more commonly known as 36 Atlas Road:

A variance for a proposed front-yard setback of 71.54 feet, whereas the existing front-yard setback is also 71.54 feet, and whereas the minimum required front-yard setback in an R-4 (1 acre) residential zone is 75 feet, pursuant to Section 21-15.1(d)(1) and Table 501 of the Land Development Ordinance; and

WHEREAS, a public hearing on notice was held on such application on May 5, 2010, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicants and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions;

1. The Board has reviewed the application and deemed it to be complete.

2. The subject property is an approximately 0.93 acre pre-existing undersized lot, with a pre-existing nonconforming lot width of 180 feet, whereas the required minimum lot width in an R-4 zone is 200 feet.

3. The subject property is presently improved with a single-family dwelling. The Applicants propose to replace an existing uncovered stoop on the front of the dwelling with an approximately 45 square foot covered, open porch.

4. The Applicants' property is depicted on a Survey, prepared by Frank J. Ernst, P.P. & L.S., of Seneca Survey Co., Inc. dated May 17, 2000. The Applicants submitted a site plan and architectural drawings prepared by Timothy J. Coleman, AIA, of Coleman Architecture, dated April 7, 2010, consisting of two sheets (site plans and notes and plans and elevations).

5. The property is in an R-4 (1 acre) residential zone. The requested variance for the front-yard setback falls within the criteria of N.J.S.A. 40:55D-70(c).

6. David Schley, AICP/PP, the Board Planner, was duly sworn according to law.

7. Christopher and Jennifer Newman, the Applicants, were duly sworn according to law and testified generally regarding the proposed porch/portico.

8. Mr. Newman testified that he took the photographs of the existing dwelling that were submitted with the application materials and that he did so shortly before the submission.

9. Timothy J. Coleman, AIA, was duly sworn according to law, provided his credentials and was accepted by the Board as an expert in the field of architecture. Mr. Coleman introduced into evidence as Exhibit A-1 eight (8) photographs of the existing

dwelling and multiple nearby dwellings within, and just beyond, the 200 foot radius of the subject dwelling. Mr. Coleman testified that the photographs depict that several nearby dwellings are similar in design and structure to the subject dwelling as proposed, inclusive of the proposed covered front porch/portico. Mr. Coleman also explained the architectural details of the proposal, including the proposed gable roof. He also reiterated that the only variance is for an approximately 3.5 foot preexisting front-yard deviation.

10. The Applicants stipulated, as a condition of approval, to maintaining the portico as an open porch, that is, covered with a roof but open on the sides except for columns/open railings, as proposed.

11. No member of the public commented on, or objected to, the development application.

12. After reviewing the evidence submitted, the Board, by a vote of 7 to 0, finds that the Applicants have satisfied their burden of proving an entitlement to the requested variance relief under N.J.S.A. 40:55D-70(c)(2).

13. With respect to the positive criteria for a “c(2)” or “flexible c” variance, the Board finds that the Applicants have satisfied their burden of demonstrating that the purposes of the Municipal Land Use Law will be advanced by the requested deviations from the zoning requirements and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. The proposed development will provide a desirable visual environment, enhance the visual compatibility of the property with adjoining properties and otherwise promote the general welfare. The Board recognizes both the safety and visual benefits associated with the proposed covered portico. The Board further finds that the proposal is consistent with the character of the

neighborhood. The Board recognizes that the proposed development would fit within the Board's recommendation to the governing body to modify the open porch ordinance, such that incorporation of the Board's recommendation in this regard would result in the Applicants not being required to appear before the Board for variance relief.

14. The Board further finds that the Applicants have satisfied the negative criteria. The Applicants have demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the Board took action on this application at its meeting on May 5, 2010, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Bernards, on the 5<sup>th</sup> day of May, 2010, that the variance application of Christopher and Jennifer Newman, for variance relief, as aforesaid, be and is hereby granted, subject to the following conditions:

- (1) The Applicants shall post sufficient funds with the Township to satisfy any deficiency in the Applicants' escrow account;
- (2) The Applicants shall maintain the front porch/portico as an open porch, that is covered with a roof but open on the sides except for columns/railings, as proposed;
- (3) 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 terms and conditions set forth herein;
- (4) The aforementioned approval also shall be subject to all State, County and Township statutes, ordinances, rules, regulations and development in the Township, County and State; and

- (5) Pursuant to Section 21-5.10 of the Land Development Ordinance, the variance granted herein shall expire unless such construction or alteration permitted by the variance has actually commenced within one year of the date of this Resolution.

ROLL CALL VOTE:

Those in Favor: Lasko, Miller, Ross, Schulenburg, Viola, Rhatican, Orr

Those Opposed: none

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Bernards at its meeting on May 13, 2010 as copied from the Minutes of said meeting.

\_\_\_\_\_  
ADJUSTMENT

FRANCES FLORIO, Secretary  
ZONING BOARD OF

OF THE TOWNSHIP OF  
BERNARDS, COUNTY OF  
SOMERSET,  
STATE OF NEW JERSEY

Dated: \_\_\_\_\_, 2010