

**GREEN TOWNSHIP ZONING BOARD OF ADJUSTMENT
RESOLUTION MEMORIALIZING THE GRANT OF
VARIOUS *BULK* VARIANCES AND A DRIVEWAY SETBACK EXCEPTION,
SUBJECT TO CERTAIN CONDITIONS, TO
APPLICATION NO. BA1405
CHARLES AND JAYNE ALLES
(BLOCK 45, LOT 18 – 33 SHORE ROAD)**

WHEREAS, application having been made on November 19, 2014, by Charles and Jayne Alles, who reside at 3 Ross Road, Stanhope, New Jersey, 07874, to the Green Township Zoning Board of Adjustment seeking the grant of various *bulk* variances, as hereinbelow more particularly set forth, with respect to certain property presently owned by Mary Ann Monticciolo, who resides at 9 Kristi Lane, Woodbury, New York, 11797, said property known and designated as Block 45, Lot 18 on the Green Township Tax Map and said property being commonly known as 33 Shore Road; and,

WHEREAS, in support of the application for the *bulk* variance relief, the applicant having submitted the following:

- A plat entitled: *Variance Plan, Lot 18, Block 45, 33 Shore Road, Situated in: Township of Green, Sussex County, New Jersey*, said plats prepared by Jeffrey Careaga of Careaga Engineering, Inc., of Budd Lake, NJ, said plats dated February 26, 2014, being constituted of four (4) sheets and having been revised on: August 1, 2014; December 23, 2014 and February 16, 2015.
- A plat entitled: *New Home For: Chuck and Jayne Alles, 33 Shore Road, Township of Green, Sussex County, New Jersey*, said plats prepared by Fox Architectural Design, P.C., of Ledgewood, NJ, said plats dated December 2, 2013 and having been revised on February 18 2015, said plats being architectural plans and elevations, including a foundation plan and being constituted of five (5) sheets.
- An engineering report entitled: *Retaining Wall Calculations for Alles Residence, 33 Shore Road, Block 45, Lot 18, Township of Green, Sussex County*, said report having been prepared by Jeffrey Careaga, P.E., said report dated December 23, 2014 and having been revised on February 23, 2015.
- A plat entitled: *Topographic Survey, Lot 18, Block 45, 33 Shore Road, Township of Green, Sussex County, New Jersey*, said survey plat having been prepared by Charles Worthington, PLS, said plats being constituted of one (1) sheet and being dated August 11, 2014.
- A report entitled: *Stormwater Management Report for Alles Residence, 33 Shore Road, Block 45, Lot 18, Township of Green, Sussex County*, said report having been prepared by Jeffrey Careaga, P.E., and being dated August 1, 2014 and having been revised on December 23, 2014 and February 12, 2015.

- A series of photographs of the dwellings surrounding of the subject property, including a photocopy of a portion of the tax map showing the subject property and entitled: *Photographs of Surrounding Dwellings for Alles Residence, 33 Shore Road, Block 45, Lot 18, Township of Green, Sussex County*, said submittal being dated August 6, 2014.
- A copy of a NJDEP permit, being a Flood Hazard Area Water (FHA) Verification/Individual Permit, dated August 23, 2013.
- A Letter of Interpretation (LOI) and Presence/Absence Determination issued by NJDEP on July 3, 2014.
- A specimen of a *Buy/Sell Letter* on Board of Adjustment form provided by the applicant to adjoining property owners.
- A report entitled: *Brief Clarifying Special Reasons Why the Variance Should be Granted*, dated July 31, 2014, on the stationery of Careaga Engineering, Inc.
- A Resolution entitled: *Township of Green – Board of Health, Resolution BOH 2014-08, Septic Design Waivers, Block 45, Lot 18 – 33 Shore Road, Decided: April 14, 2014, Memorialized: April 28, 2014.*

WHEREAS, the applicant having provided proper, timely and adequate notice of the relief being sought by publication, once, in the official newspaper of the Township of Green and by providing notice thereof, by certified mail, return receipt requested, to all property owners located within 200 feet of the subject property and to other persons, entities and agencies being entitled to receive notice thereof all in accordance and compliance with the provisions of the Municipal Land Use Law, particularly, N.J.S.A. 40:55D-12 and the Board having determined that it was vested with jurisdiction to hear the application and take Official Action with respect thereto;

WHEREAS, hearings were held upon the application at the following meetings of the Board:

- December 14, 2014
- January 15, 2015 (Applicants' engineering not present – hearing continued to February meeting)
- February 5, 2015
- April 2, 2015

WHEREAS, the applicants having appeared, *pro se*, at all the hearings held upon the application but having retained the services and presented the testimony of Jeffrey Careaga, P.E, P.L.S., the applicants' professional engineer and land surveyor; and,

WHEREAS, the applicants having presented the testimony of Mr. Ken Fox, an architect and professional planner; and,

WHEREAS, at the hearing held upon the application at the regular meeting of December 4, 2014, Mr. Wayne Daniel, a Trustee of the Lake Tranquility Country Club, the owner of Block 45, Lot 16, adjoining the subject property on the easterly side thereof, appeared before the Board, not to object to the approval of the application, per se, but expressing to the Board the possibility that the Lake Tranquility Country Club might be interested in selling at least a portion of Block 45, Lot 16, to the applicants; and,

WHEREAS, Mrs. Renee P. Deltieure, the owner and resident of Block 45, Lot 19, 35 Shore Road, adjoining the subject property on the westerly side thereof, appeared, together with her son, to object to the granting of the application primarily because of the reduced westerly property sideline setback; and,

WHEREAS, as a result of the application made to it and the other submittals provided in support thereof and the hearings held upon the application at the regular meetings of the Board as set forth hereinabove, the Green Township Zoning Board of Adjustment does hereby make the following basic **FINDINGS OF FACT**:

1. The applicants are Charles and Jayne Alles, who reside at 3 Ross Road, Stanhope, New Jersey, 07874.
2. The property which is the subject of the application and which is known and designated as Block 45, Lot 18, on the Green Township Tax Map is commonly known as 33 Shore Road.
3. The subject property is presently owned by Mary Ann Monticciolo, who resides at 9 Kristi Lane, Woodbury, NY 11797. The applicants are under contract with the property owner to purchase the subject property provided the requisite variance relief can be secured to enable construction of a single family residence thereon.

4. The subject property is a generally rectangular lot fronting upon the northwesterly side of Shore Road and being bounded on the north by Lake Tranquility. The subject property has a width, measured along the edge of the right-of-way of Shore Road, of 80.00 feet; has an easterly sideline length of 166 feet; a westerly sideline length of 200 feet and contains a total area of 0.29 acres or 12,445 sq. ft.
5. The applicants propose to construct upon the subject property a one-and-a-half story dwelling house having an overall width (dimensions given are for the *smallest encompassing rectangle*) of 45'0" and an overall depth (exclusive of the stairway but inclusive of the porch) of 41'0".
6. The proposed single-family dwelling house will be constituted of the following rooms:
 - First Floor: living room, master bath, powder room, walk-in closet, master bedroom, eating alcove and kitchen.
 - Second Floor: family room, bath and bedroom.
7. The proposed dwelling will create a *building footprint* of 1,495.7 sq. ft. and will have an overall height of 30.3 feet.
8. The proposed dwelling house will have the following setbacks:
 - Front yard setback (measured from the edge of the right-of-way of Shore Road) of 53.0 feet.
 - Easterly side yard setback of 10.0 feet.
 - Westerly side yard setback of 25 feet.
 - A rear yard side back (measured to the edge of the water of Lake Tranquility) of 54 feet, more or less.
9. Access to the subject property will be achieved by means of a paved and heated (requested by the Board, agreed to by the applicants and hereinbelow made a condition of approval) driveway having a width of 11 feet and running from Shore Road in a generally north/south direction to the easterly side of the dwelling house, where there will be a drive-in garage/basement.

10. A modular block retaining wall will be constructed to the rear (northerly portion) of the dwelling house in order to decrease the amount of land disturbance required for construction of the dwelling house and to protect the riparian buffer attending Lake Tranquility.
11. A proposed septic disposal field will be constructed in the front (southerly portion) of the dwelling house and proximate to the front property line but meeting the minimum required setback distances.
12. A parking area, to be utilized by the applicants and their guests at times when use of the driveway when snow or ice Winter conditions would be imprudent, will be established along the frontage of the property on Shore Road and immediately to the west of the proposed driveway.
13. *Bulk* variance relief has been sought and is required for:
 - Minimum lot area, the subject property being located in the R 1.5 Residential Zone District, the requirement being a minimum area of 1.5 acres, the subject property containing a total area of 0.29 acres or 12,445 sq. ft.
 - Minimum lot width (measured at the street line), the requirement being 112 feet, the lot having a width of 80 feet.
 - Minimum lot width (measured at the building setback line), the requirement being 190 feet, the subject property containing a width of 80 feet.
 - Front yard setback, the minimum required front yard setback being 43.2 feet (based upon the *front yard exception* provisions of Section 30-64.2(b), allowing for the average of the setbacks of adjoining residences), the proposed dwelling house having a setback of 45.7 feet, thereby being conforming.
 - A rear yard setback of 75 feet is required, the proposed dwelling house to have a rear yard setback of 81.1 feet, also being conforming.

- Side yard setback required is 25 feet, the dwelling house to have a conforming easterly side yard setback but a nonconforming westerly side yard setback of 10.0 feet.

14. Accordingly, *bulk* variance has been sought and is required for: minimum lot area; minimum lot width (measured to the street line); minimum lot width (measured at the building setback line) and westerly side yard setback.

WHEREAS, as a result of the forgoing basic **FINDINGS OF FACT**, the Green Township Zoning Board of Adjustment hereby makes the following ultimate **CONCLUSIONS BASED THEREON**:

- a. This application is based upon the provisions of the Municipal Land Use Law, particularly N.J.S.A. 40:55D-70(c.)(1), which provides, in pertinent part, as follows:

Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance form such strict application of such regulations as to relieve such difficulties or hardship.

- b. The foregoing are the so-called *positive criteria* which must be satisfied prior to the granting of such a variance. Additionally, the so-called *negative criteria* which also must be satisfied are as follows: *No variance or other relief may be granted...without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.*

- c. Here, in this particular case, the Board of Adjustment originally viewed the applicants' proposal, particularly the proposed size, location and configuration of the dwelling house, to be somewhat "overreaching" for a lot as constrained (with respect to area and width) as is the subject property. However, the applicants and their engineer accepted the Board's suggestions and redesigned the dwelling house to increase the originally proposed westerly side yard setback from 5.0 feet, measured at the point of a "bump out" in the westerly side wall of the residence; eliminated the proposed "bump out" and established a uniform westerly side yard setback of 10.0 feet.
- d. Additionally, the applicants and their engineer attempted to redesign the dwelling house to reduce the grade of the driveway by establishing a *front-loaded* garage. However, after an analysis by the applicants' engineer, it was determined that this would be impossible to do so, given the *maximum limits of disturbance* established by the applicants' NJDEP approvals/permits.
- e. The Board has determined that the size and location (with respect to front yard setback) of a proposed dwelling house is consistent and, in many cases well exceeds, the prevailing setbacks of other residences fronting upon Shore Road in the area of the subject property.
- f. Furthermore, the Board of Adjustment has concluded that, although the proposed 10 foot westerly side yard setback is less than half of the minimum required (25 foot) side yard setback, the total distance between the applicants' dwelling house to the dwelling house on the adjoining property (Block 45, Lot 19 – owned by Mrs. Renee P. Deltieure (35 Shore Road)) is significantly greater than at least most of the total separation distances between residences on adjoining lots in that area of Shore Road.
- g. The Board of Adjustment herewith concludes that the subject property, although constrained with respect to area and width and the location of environmentally sensitive/protected lands along the shore of Lake Tranquility, has been demonstrated to be a suitable building lot and should be granted the requisite *bulk* variance approvals to enable the new construction proposed.

- h. The Board of Adjustment is satisfied that, absent the granting of the *bulk* variance relief as sought, any further reduction in the size of the dwelling house will make it unnecessarily constrained, will diminish its utility and may even result in a project that is *not worth doing*.
- i. The denial of the *bulk* variance relief in this particular case and for the reasons found and determined by the Board of Adjustment would result in *practical difficulty to and undue hardship upon the applicants*, thereby enabling and justifying the grant of the *bulk* variance relief sought.
- j. Finally, the Board of Adjustment has determined that the grant of the *bulk* variance relief sought will not result in substantial detriment to the public good nor any substantial impairment to the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Green.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Township of Green that, as a result of the foregoing basic **FINDINGS OF FACT** and ultimate **CONCLUSIONS BASED THEREON**, the following **OFFICIAL ACTION** is taken with respect thereto:

1. **APPLICATION NO. BA1405**, being the application of **CHARLES** and **JAYNE ALLES**, for certain property known and designated as **BLOCK 45, LOT 18**, on the Green Township Tax Map, commonly known as 33 Shore Road, **BE** and same is herewith **GRANTED** variance relief for: minimum lot area (1.5 acres required, the subject property containing an area of 0.29 acres/12,445 sq. ft.); minimum lot width (measured at the street line), 112 feet required, 80 feet existing; minimum lot width (measured at the building setback line), 190 feet required, 80 feet existing and westerly side yard setback, 25 feet required and 10 feet proposed).
2. A **WAIVER, BE** and same is herewith **GRANTED** from the minimum (10 foot) separation distance required between a driveway and a property sideline, to enable construction of the proposed driveway located five (5) feet from the easterly property sideline.

3. The foregoing Official Action is taken, subject to full compliance by the applicant with the following terms and conditions:
 - a. The applicants shall provide proof of the payment of all real estate taxes and assessments due on the subject property through the second quarter of 2015.
 - b. The applicant shall reimburse the costs of professional services rendered to this application on account of engineering, planning and attorney involvement, including the cost of preparation of this memorializing Resolution.
 - c. The applicants shall cause to be prepared and submitted to the Township engineer for his review and approval, a site grading plan and shall not undertake any land disturbance prior to the approval thereof.
 - d. The applicants shall construct the dwelling house and all other site improvements, appurtenances and amenities in strict compliance with the plats submitted to and approved by the Board, including, particularly, establishing the Shore Road shoulder parking area and the electrical heating of the driveway, **any deviations therefrom** requiring resubmission to, re-review and re-approval by the Board of Adjustment.
 - e. The applicants are herewith alerted to the requirements of Section 33-7(d.) of the Land Use Procedures Ordinance which provides that: *d. No Final Action Until Payment is Made. No final action on an application for development shall be taken until all escrow deposit fees in connection with such application shall have been paid in full. Every Resolution of memorialization adopted by the Planning Board and/or Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-10(g.) and/or Board of Health shall be expressly conditioned upon the applicant making payment in full of all sums due to or to grow due on account of such escrow account within twenty (20) days of the date of being billed therefor by the Township, and in default of which the Planning Board and/or Zoning Board of Adjustment and/or Board of Health may thereupon or anytime thereafter declare such Resolution of memorialization and any relief granted pursuant thereto to be null, void and of no further effect.*

**GREEN TOWNSHIP ZONING BOARD
OF ADJUSTMENT**


EUGENE BAMBARA, CHAIRMAN


DESIREE L. DUNN, SECRETARY

I hereby certify the foregoing Resolution to be a true and complete memorialization of the Official Action taken by the Green Township Zoning Board of Adjustment at its regular meeting held on April 2, 2105, by a motion and vote as follows:

MOTION TO GRANT THE *BULK* VARIANCE RELIEF AND THE DRIVEWAY SETBACK EXCEPTION, SUBJECT TO CERTAIN CONDITIONS, TO APPLICATION NO. BA1405 – CHARLES AND JAYNE ALLES (BLOCK 45, LOT 18 – 33 SHORE ROAD):

IN FAVOR: Chairman Bambara, Mr. Tommaso, Mr. Torella, Mr. Walker, Mr. Wilson.

OPPOSED: Mr. Fox.

ABSTAIN: None.

ATTEST:


DESIREE L. DUNN, SECRETARY

Dated: May 7, 2015
GZBA: AllesBulkVariance.Reso

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Alles*

Application No. BA 1405

Charles and Jayne

*Grant of Bulk Variance
Relief and Driveway
Setback Exception*