

12/1/11

Mr. Britton offered the following Resolution and moved on its adoption:

**RESOLUTION APPROVING BULK VARIANCE AND DESIGN WAIVER  
FOR COMPAGNI AT 21 PROSPECT STREET**

WHEREAS, the applicants, JOSEPH & JENNIFER COMPAGNI, are the owners of a single-family home at 21 Prospect Street, Highlands, New Jersey (Block 28, Lot 16); and

WHEREAS, the property owners filed an application to lower their driveway and construct a new single-car garage with a balcony over top; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

WHEREAS, the Board considered the application at a public hearing on October 6, 2011; and

WHEREAS, the Board heard the testimony of JOSEPH COMPAGNI, JOSEPH SACCO (draftsman), and RICHARD STOCKTON (licensed surveyor and professional planner); and

WHEREAS, the Board also heard supporting testimony from a neighbor, ANTHONY MARCELLO, 23 Prospect Street; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (4 pages), including the Zoning Officer denial notice;

A-2: 6/9/11 survey by RICHARD STOCKTON;

A-3: Uncertified architectural drawings (2 pages);

A-4: Photo of house and driveway;

A-5 Close-up photo of driveway;

A-6 Photo of driveway from the street;

A-7 Photo of driveway from the garage;

A-8 Photo of driveway apron, showing where cars bottom out;

A-9 Photo of right-of-way, showing cars on both sides;

A-10 Architectural plans on large board;

A-11 Front view of proposed change on large board;

A-12 Elevation drawings on large board;

A-13 Photo of house to the east, showing detached garage;

A-14 Photo of neighbor one lot away with garage closer to street than applicants';

AND, WHEREAS, the following exhibit was also marked into evidence:

B-1: Board Engineer review letter dated 9/30/11;

AND, WHEREAS, no persons appeared in opposition or to ask questions about this application; and

WHEREAS, the Board, after considering the evidence and testimony, has made the following factual findings and conclusions:

1. The applicants are the owner of a single-family home located in the R-1.02 Zone.

2. The home sits on a relatively steep slope, with the driveway sloping to the street. At the point at which the driveway hits the street, the angle is such that cars "bottom out" and are unable to access the driveway.

3. The current slope is dangerous to maneuver as a pedestrian, plus you cannot currently get a car into the garage because of the angle of the driveway apron.

4. The street is narrow and crowded. Though parking is allowed on both sides, it makes it difficult for vehicles to pass on the street, and even more difficult for emergency service vehicles to navigate.

5. This proposal will permit two cars to be parked off the street, where currently none are able to park off the street.

6. The property owners propose to lessen the slope of the driveway, which will facilitate a vehicle being able to enter the driveway and also to park in the garage. It will also make it easier for snow removal, since sometimes the town can't even get its vehicles down the street for snow removal.

7. Testimony from the neighbor was to the effect that the road is very narrow, to the point

where he cannot even get his 4X4 in position to get on his own property. According to him, the street is an emergency service nightmare, and he is a former NYPD employee. He also testified to the difficulty on bulk pickup days, and having to coordinate parking with neighbors, just so the borough vehicles can get down the street. He also supports the idea of getting more cars off the street, and is very much in favor of this proposal.

8. Though hearsay, MR. MARCELLO testified that he spoke to several neighbors about this application, and that all of them were in agreement with the proposal.

9. In addition to lessening the angle of the driveway, the applicants also propose to put new stairs with a railing in the front of the house and new stairs to the rear yard. There will also be a new front porch constructed.

10. All of the proposed changes by the applicants will make it safer and easier for pedestrians to access the driveway, garage and house.

11. The applicants also propose to install siding on the entire house, which will be a desirable visual improvement.

12. Though some shrubbery will be removed as part of this project, most will remain.

13. The retaining wall proposed by the applicants will stop water from going on the neighboring property to the right.

14. The difference in elevation between the existing garage door and the gutter of the street is in excess of 11 feet. This differential will change to approximately 4 feet as a result of the applicants' proposal, which will be a significant improvement.

15. All of the properties along the street are encumbered by the hill, as a result of which the property owners' driveways are quite steep. At least two of the properties have detached garages closer to the street, because of this problem.

16. The applicants' planner testified regarding the setbacks of other properties on the street from the right-of-way line to their garages. In one case (A-13) it was 10.6 feet. In another (A-14) it was 5.1 feet.

17. The applicants' planner testified that the property is unique, as are the houses to the east. He testified that the ordinance requirement of a 35-foot setback is impractical, because of the steepness of the hill and trying to get a driveway in to the house

and, thereby, move vehicles off the street. His opinion was that the proposal of this property owner would be much safer than the current situation, and the garage would now be able to be used as intended.

18. The proposal will permit 2 cars to park on the property---one in the garage, and one to the side.

19. The application will further provide for a safe parking area, both for the vehicles and for pedestrians. In addition, the current older steps have a wider tread spacing. The new ones will be much safer.

20. According to the planner, this is a good improvement with a minimal disturbance of property.

21. In addition to the variance for the front yard setback (9.4 feet, where 35 feet is required), the property owners also seek a design waiver for the driveway width (23 feet, where 18 feet is permitted). The Board finds both of these requests to be reasonable and, as set forth above, a significant improvement to the property and a safer layout than currently exists. This is so both visually and by accomplishing the moving of vehicles off the street in an area where parking on the street is both a problem and a hazard.

22. The Board finds that the applicant has met the positive and negative criteria required under the Municipal Land Use Law. The proposed new garage, driveway widening, front steps and porch will not be a substantial detriment to the intent and purpose of the zone plan and zoning ordinance. The Board is empowered to grant this bulk variance pursuant to both N.J.S.A. 40:55d-70c(1) and -70c(2). As to subsection c(1), the property has an exceptional topographic condition and physical feature that supports the relief requested by the applicants. As to subsection c(2), the purposes of the Municipal Land Use Law will be advanced, in that the benefit of the deviations requested substantially outweigh any detriment. In fact, the Board sees no detriment.

WHEREAS, the application was heard by the Board at its meeting on October 6, 2011, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of JOSEPH & JENNIFER COMPAGNI to construct a 220 square foot single-car garage with new balcony over top connecting to the existing master bedroom and to demolish the existing front steps and construct a new front porch is hereby approved; and a variance is hereby granted for the front yard setback of 9.4

feet, where 35 feet is required and for a design waiver for the driveway width of 23 feet where 18 feet is permitted.

AND BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

A. Applicants shall comply with the provisions in paragraphs 1, 4 and 5 in the Board Engineer's review letter (Exhibit B-1).

B. All water runoff shall be toward the street, though it is left to the property owners' discretion whether to undertake the same above or below ground.

Seconded by Mr. Gallagher and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** **Ms. Ryan, Mr. Fox, Mr. Gallagher, Mr. Britton, Mr. Knox, Mr. Kutosh, Mr. Braswell**

**NAYES:** **None**

**ABSTAIN:** **None**

**DATE:** **December 1, 2011**

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**Carolyn Cummins, Board Secretary**

I hereby certify this to be a true copy of the Resolution adopted by the Borough of Highlands Zoning Board of Adjustment at a meeting held on December 1, 2011.

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Board Secretary