

A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF HADDONFIELD

APPLICATION/RESOLUTION NUMBER: ZBA #2021-25
PROPERTY ADDRESS: 21-23 Mechanic Street [B 20 L 8]
APPLICANT/OWNER: The Aston Zane CO, LLC
DATE OF HEARING: July 20, 2021
APPEARANCES: Owner of Applicant- Stuart Harting
Damien O. Del Duca, Esquire, Counsel for Applicant
Tavis Karrow, Board Secretary
Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson
Wayne Partenheimer, Vice-Chairperson
Brian Mulholland
William Shanahan
Bryan Pukenas
Brittany Bonetti

PROPERTY DESCRIPTION

ZONING DISTRICT: D-2
LOT DIMENSIONS: 35.59 x 42.94
STRUCTURE ON LOT: two and a half story building

DEVELOPMENT PROPOSAL

The applicant proposes to convert the ground floor of the existing building to a retail store and seeks an interpretation from the Zoning Board that a parking variance is not required. In the alternative, the applicant seeks a parking variance should the Zoning Board determine one is required.

RELIEF/VARIANCE REQUESTED

Section 135-86 states that all non-residential uses in the downtown zones require three parking spaces per 1,000 square feet of floor area, other than restaurants.

SUBMISSIONS

Application

Survey, prepared by Walter H. Macnamara Assoc Inc, dated May 22, 2006

Architectural Plans, prepared by Thomas B. Wagner, Architect, dated May 5, 2021

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant is The Aston Zane Company, LLC, owner of property located at 21 and 23 Mechanic Street, which is in the D-2 zoning district. The applicant proposes to convert its first-floor unit from a hair salon to a studio dwelling unit or, in the alternative, a retail clothing store. The zoning officer denied the applicant's zoning permit application, determining that a parking variance was required. Therefore, the applicant filed an application with the Zoning Board requesting an interpretation of the ordinance that a variance is not required. Alternatively, if the Board determined that a variance is required, it seeks that variance.

Section 135-86.D states that all residential dwelling units in the downtown strips shall provide 1.5 parking spaces on site per dwelling unit.

Section 135-86 states that all non-residential uses in the downtown zones require three parking spaces per 1,000 square feet of floor area, other than restaurants.

The applicant already was required to provide three parking spaces per 1000 sf of floor area for the hair salon that occupied the property. A dwelling unit would be required to have 1.5 parking spaces. A retail use would have the same requirement as a hair salon- three parking spaces. All these uses are permitted in the D2 zone. The applicant is unable to provide any parking because there is no off-street parking on the property. The applicant contends that it was not the Borough's intent when drafting the ordinance to require a property owner to have to seek a variance every time the use changed if the parking requirement remains the same or less than the current use, especially considering the entire property is covered by the existing building and has never had any space available for parking.

No members of the public spoke.

FINDING OF FACT AND CONCLUSIONS

1. The property is in the D-2 zone.
2. The Board has jurisdiction over the subject matter requiring a decision.
3. The Board Secretary had identified as complete all necessary items to apply to the Board for variance approval.
4. The Applicant has provided testimony as to the existing/proposed use of the building on this specific property.
5. The Board voted on the zoning officer's interpretation of Section 135-86 and decided that it disagreed with his determination.
6. Therefore, going forward, any property owner in the downtown zones who seeks to change the use of the property from one permitted use to another, where both uses require the same number of parking spaces, does NOT need to apply for a parking variance to do so.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the request to accept the zoning official's interpretation of the Code be and is hereby denied, pursuant to N.J.S.A. 40:55D-70(c).

Motion By: Burns, seconded by Shanahan

Board members voting to accept the zoning officer's interpretation of the Haddonfield Code of Ordinances: Burns, Partenheimer, Mulholland

Board members voting to deny the zoning officer's interpretation of the Haddonfield Code of Ordinances: Shanahan, Pukenas, Bonetti

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be mailed within ten (10) days of the date of its adoption to the Applicant's Counsel and that a copy of this Resolution be maintained on file by the Construction Office of the Borough of Haddonfield and that a brief notice of this decision shall be published in the official newspaper of the Borough of Haddonfield.

CERTIFICATION

I hereby certify that the foregoing is a true, accurate and complete copy of the resolution of memorialization adopted by the Zoning Board of Adjustment of the Borough of Haddonfield at its regular monthly meeting on August 17, 2021, memorializing action taken by the Zoning Board on July 20, 2021.

Dated: _____

TAVIS KARROW, Secretary

A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF HADDONFIELD

APPLICATION/RESOLUTION NUMBER: ZBA #2021-22
PROPERTY ADDRESS: 21 E. Upland Way [B 63 L 4]
APPLICANT/OWNER: Robert and Remy Stiles
DATE OF HEARING: July 20, 2021
APPEARANCES: Owner and Applicant- Robert Stiles
Al Masullo, Landscape Architect
Tavis Karrow, Board Secretary
Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson
Wayne Partenheimer, Vice-Chairperson
Brian Mulholland
William Shanahan
Bryan Pukenas
Brittany Bonetti

PROPERTY DESCRIPTION

ZONING DISTRICT: R5
LOT AREA: 8,910 sf
STRUCTURE ON LOT: single-family house

DEVELOPMENT PROPOSAL

The applicants seek variance approval to add a patio in the rear of its property and to widen its driveway in the front of its property from one car width to two.

RELIEF/VARIANCE REQUESTED

Section 135-30D(4)(b)- to permit impervious coverage of 39% where 32% maximum is allowed.

SUBMISSIONS

Application

Photographs of the exterior of the house

Prior resolution of the Haddonfield Zoning Board for the property dated July 17, 2018

Survey, prepared by Morgan Engineering & Surveying, dated 9/14/20

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant proposes to add a patio in the rear of its property. It contends that the porous pavers it intends to use will assist in yard drainage and allow for a functional backyard setting. It is also looking to increase the width of its driveway to allow for side-by-side parking of two vehicles. Applicant stated that this will ensure the safer movement of vehicles from the driveway. Also, the blind curve that exists as vehicles turn from Centre Street into Upland Way is a safety hazard.

The property is currently built out to the maximum allowable impervious coverage. The applicant proposes to install an underground drainage system to capture the additional runoff created by the increase in impervious coverage.

No members of the public spoke.

FINDING OF FACT AND CONCLUSIONS

1. The property is in the R-5 zone.
2. The Board has jurisdiction over the subject matter requiring a decision.
3. The Board Secretary had identified as complete all necessary items to apply to the Board for variance approval.

4. To obtain a (c)2 variance, the Applicant has a burden to show that an application relating to a specific property would advance the purposes of the zoning ordinance by a deviation from the ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment. In other words, the Applicant has to show that (1) the variance pertains to the specific property; (2) that a variance would advance the purposes of the MLUL and the ordinance; (3) the variance does not cause “substantial detriment to the public good”; (4) its benefits substantially outweigh any detriments from the deviation; and (5) the variance does “not substantially impair the intent and purpose of” the Zoning Plan and Zoning Ordinance.
5. The Applicant has provided testimony as to the existing/proposed use of the building on this specific property.
6. The Board decided to vote on the two requests separately because each request had distinct evidence to support or deny its approval.
7. The Board voted on the request for the back patio with the condition that a drainage system to capture the additional runoff be installed. (Variance 1)
8. The Board also voted on the addition to the width of the driveway. (Variance 2)
9. Variance 1- The granting of the variance does not represent any detriment to the zone plan or ordinance. On the contrary, it improves conditions on the property, which benefits the neighborhood. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
10. Variance 2- The variance cannot be granted as it represents a detriment to the zoning ordinance and violates the spirit and intent of the zoning ordinance.
11. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Haddonfield Board of Adjustment.

RESOLUTION FOR VARIANCE 1

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the application for Variance 1 be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c).

CONDITIONS OF APPROVAL

1. A drainage system approved by the Borough is installed.
2. The development approved by this resolution must comply with the plans and specifications submitted with this application.
3. Applicant must comply with all other applicable ordinances and codes including but not limited to Shade Tree Ordinance, building codes, fire codes and all water management requirements.

Motion By: Burns, seconded by Shanahan

Board members voting to grant the requested variance: Burns, Partenheimer, Bonetti, Mulholland, Shanahan, Pukenas

Board members voting to deny the requested variance: None

RESOLUTION FOR VARIANCE 2

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the application for Variance 2 be and is hereby denied, pursuant to N.J.S.A. 40:55D-70(c).

Motion By: Shanahan, seconded by Pukenas

Board members voting to grant the requested variance: Pukenas, Partenheimer, Shanahan

Board members voting to deny the requested variance: Mulholland, Burns, Bonetti

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be mailed within ten (10) days of the date of its adoption to the Applicant's Counsel and that a copy of this Resolution be maintained on file by the Construction Office of the Borough of Haddonfield and that a brief notice of this decision shall be published in the official newspaper of the Borough of Haddonfield.

CERTIFICATION

I hereby certify that the foregoing is a true, accurate and complete copy of the resolution of memorialization adopted by the Zoning Board of Adjustment of the Borough of Haddonfield at its regular monthly meeting on August 17, 2021, memorializing action taken by the Zoning Board on July 20, 2021.

Dated: _____

TAVIS KARROW, Secretary

A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF HADDONFIELD

APPLICATION/RESOLUTION NUMBER: ZBA #2021-26
PROPERTY ADDRESS: 128 Mountwell Ave [B 68 L 6]
APPLICANT/OWNER: Meghan and Tom Hessert
DATE OF HEARING: July 20, 2021
APPEARANCES: Owner and Applicant- Thomas Hessert
Tavis Karrow, Board Secretary
Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson
Wayne Partenheimer, Vice-Chairperson
Brian Mulholland
William Shanahan
Bryan Pukenas
Brittany Bonetti

PROPERTY DESCRIPTION

ZONING DISTRICT: R7
LOT DIMENSIONS: 137.5 x 62.5
STRUCTURE ON LOT: single-family house

DEVELOPMENT PROPOSAL

The applicants proposed to remove the existing 8' x 10' shed in the rear of their property and replace it with a new 10' x 18' shed.

RELIEF/VARIANCE REQUESTED

Section 135-32D(4)(a)- to permit building coverage of 27.8% where 25% maximum is allowed.

SUBMISSIONS

Application

Survey, prepared by Walter H. Macnamara Assoc Inc, dated April 7, 2017

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant proposes to remove the existing shed in her back yard and replace it with a new shed. The existing shed is 8' x 10' and the new one will be 10' x 18'. The applicant has no garage and is looking for a bigger unit to store bikes, yard tools and a lawnmower. The existing shed is currently non-conforming as it is only two feet from the side yard property line and not the required five feet for an accessory structure. The larger shed will create a building coverage percentage of 27.8% where 25% is the maximum permitted.

No members of the public spoke.

FINDING OF FACT AND CONCLUSIONS

1. The property is in the R-7 zone.
2. The Board has jurisdiction over the subject matter requiring a decision.
3. The Board Secretary had identified as complete all necessary items to apply to the Board for variance approval.
4. To obtain a (c)2 variance, the Applicant has a burden to show that an application relating to a specific property would advance the purposes of the zoning ordinance by a deviation from the ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment. In other words, the Applicant has to show that (1) the variance pertains to the specific property; (2) that a variance would advance the purposes of the MLUL and the ordinance; (3)

the variance does not cause “substantial detriment to the public good”; (4) its benefits substantially outweigh any detriments from the deviation; and (5) the variance does “not substantially impair the intent and purpose of” the Zoning Plan and Zoning Ordinance.

5. The Applicant has provided testimony as to the proposed use of the building on this specific property.
6. The variances can be granted under NJSA 40:55D-70c(2).
7. The proposed improvement will provide a more desirable visual environment.
8. The requested shed, while exceeding building coverage slightly, will correct the non-conformance on the side yard setback.
9. The granting of the variances does not represent any detriment to the zone plan or ordinance. On the contrary, it improves conditions on the property, which benefits the neighborhood.
10. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
11. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Haddonfield Board of Adjustment.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the application for a variance be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c).

CONDITIONS OF APPROVAL

1. The development approved by this resolution must comply with the plans and specifications submitted with this application.

2. Applicant must comply with all other applicable ordinances and codes including but not limited to Shade Tree Ordinance, building codes, fire codes and all water management requirements.

Motion By: Mulholland, seconded by Bonetti

Board members voting to grant the requested variances: Burns, Partenheimer, Bonetti, Mulholland, Shanahan, Pukenas

Board members voting to deny the requested variances: None

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be mailed within ten (10) days of the date of its adoption to the Applicant’s Counsel and that a copy of this Resolution be maintained on file by the Construction Office of the Borough of Haddonfield and that a brief notice of this decision shall be published in the official newspaper of the Borough of Haddonfield.

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Dated: _____

TAVIS KARROW, Secretary

A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF HADDONFIELD

APPLICATION/RESOLUTION NUMBER: ZBA #2021-23
PROPERTY ADDRESS: 429 Westminster Avenue [B 88.02 L 1.02]
APPLICANT/OWNER: Bruce and Terri Raphelson
DATE OF HEARING: July 20, 2021

APPEARANCES: Owner and Applicant- Bruce Raphelson

 Damien O. Del Duca, Esquire, Attorney for Applicant

 James Holliday, Architect for Applicant

 Tavis Karrow, Board Secretary

 Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson

Wayne Partenheimer, Vice-Chairperson

Brian Mulholland

William Shanahan

Bryan Pukenas

Brittany Bonetti

PROPERTY DESCRIPTION

ZONING DISTRICT: R3
LOT DIMENSIONS: 75 x 140
STRUCTURE ON LOT: single-family house

DEVELOPMENT PROPOSAL

The applicants seek variance approval to add a two-story addition in the rear of their property, which will maintain their impervious coverage percentage of 41.89% where 28% is the maximum allowed.

RELIEF/VARIANCE REQUESTED

Section 135-28D(4)(b)- to permit impervious coverage of 41.89% where 28% maximum is allowed.

SUBMISSIONS

Application

A-1 Photographs of the exterior of the house

A-2 Floor plans and elevations prepared by Holliday Architects, dated April 7, 2021, last revised June 14, 2021

A-3 Survey, prepared by REL Survey, LLC, dated May 21, 2021, last revised June 21, 2021

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant proposed to add a two-story addition in the rear of their property. Their attorney presented the application and had the applicant/owner, Mr. Raphelson, testify to the facts that they have lived in the home since 2010 and have not made any changes to the exterior of the home. Mr. James Holliday, the architect on the project, also testified. He explained that the addition will increase building coverage but impervious coverage would remain the same because they are looking to build over existing impervious coverage. Mr. Holliday also explained that the additional proposed building coverage increased slightly by 27 square feet from 103 square feet to 120 square feet when he re-calculated the coverage to include the cantilevered addition on the second story. The property is an undersized lot for the R-3 zone at 10,499sf where 12,500sf is the minimum. There are also a number of existing non-conforming conditions on the property that are not being changed or expanded in any way.

No members of the public spoke.

FINDING OF FACT AND CONCLUSIONS

1. The property is in the R-3 zone.
2. The Board has jurisdiction over the subject matter requiring a decision.
3. The Board Secretary had identified as complete all necessary items to apply to the Board for variance approval.
4. To obtain a c(1) variance, the Applicant has to show a hardship specific to the Property.
5. To obtain a (c)2 variance, the Applicant has a burden to show that an application relating to a specific property would advance the purposes of the zoning ordinance by a deviation from the ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment. In other words, the Applicant has to show that (1) the variance pertains to the specific property; (2) that a variance would advance the purposes of the MLUL and the ordinance; (3) the variance does not cause “substantial detriment to the public good”; (4) its benefits substantially outweigh any detriments from the deviation; and (5) the variance does “not substantially impair the intent and purpose of” the Zoning Plan and Zoning Ordinance.
6. The Applicant has provided testimony as to the existing/proposed use of the building on this specific property.
7. The variances can be granted under both NJSA 40:55D-70c(1) and c(2).
8. The property is undersized for the zone.
9. The proposed improvements will provide a more desirable visual environment.
10. The requested impervious variance will not increase impervious because they are building over existing impervious surface.
11. The granting of the variance does not represent any detriment to the zone plan or ordinance. On the contrary, it improves conditions on the property, which benefits the neighborhood.
12. For the reasons set forth above, the relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.

13. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Haddonfield Board of Adjustment.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the application for a variance be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c).

CONDITIONS OF APPROVAL

1. The development approved by this resolution must comply with the plans and specifications submitted with this application.
2. Applicant must comply with all other applicable ordinances and codes including but not limited to Shade Tree Ordinance, building codes, fire codes and all water management requirements.

Motion By: Burns, seconded by Parteneheimer

Board members voting to grant the requested variances: Burns, Parteneheimer, Bonetti, Mulholland, Shanahan, Pukenas

Board members voting to deny the requested variances: None

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be mailed within ten (10) days of the date of its adoption to the Applicant's Counsel and that a copy of this Resolution be maintained on file by the Construction Office of the Borough of Haddonfield and that a brief notice of this decision shall be published in the official newspaper of the Borough of Haddonfield.

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its regular monthly meeting on August 17, 2021, memorializing action taken by the Zoning Board on July 20, 2021.

Dated: _____

TAVIS KARROW, Secretary