

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE
BOROUGH OF HADDONFIELD REVERSING THE ZONING OFFICER'S DENIAL OF A
ZONING PERMIT
TO ROBERT AND SARA LIVERMORE
APPEAL #420-023**

A public hearing on this matter was conducted by the Board on June 16, 2020.

APPEAL NUMBER: #420-023

PROPERTY ADDRESS: 211 E. Cottage Avenue
Block 51, Lot 4.05 on the Tax Map

NAME OF APPELLANTS: Robert and Sara Livermore

OWNER OF PROPERTY: Robert and Sara Livermore

DATE OF HEARING: June 16, 2020

**BOARD MEMBERS PRESENT
AND VOTING:**

Kevin Burns, Chairperson
Wayne Partenheimer, Vice Chair
Brian Mulholland
Bryan Pukenas
Steve Sweet
William Shanahan (Alternate I)
Brittany Bonetti (Alternate II)

ALSO PRESENT: Richard Wells (Alternative IV)

APPEARANCES: Robert Livermore, Appellant
Travis Greiman, Borough Engineer
Tavis A. Karrow, Zoning Officer & Board Secretary
Francis X. Ryan, Esquire, Board Solicitor

NOTE: The meeting was conducted online via Zoom®

PROPERTY DESCRIPTION

ZONING DISTRICT: R-7
LOT DIMENSIONS: 50' x 103'
LOT AREA: 5,150 +/- square feet (irregular)
STREET FRONTAGE: 50 feet
STRUCTURES LOCATED ON LOT: 2 story single family residence.

ISSUE ON APPEAL

1. Was the zoning officer's denial of a zoning permit proper?

RELIEF REQUESTED

Reversal of zoning officer's decision and issuance of zoning permit.

SUBMISSIONS

Application for a zoning permit
Prior board resolution under Case No. ZBA-2019-12
Site photographs
Letter in support of appeal

SUMMARY OF PROCEEDINGS

This matter came before the Board as an appeal from the Zoning Officer's issuance of a zoning permit pursuant to N.J.S.A. 40:55D-70(a). The appeal was timely filed.

The Board proceeded to review the initial application and submissions which accompanied same. The Board also considered the Appellant's Letter in Support of Appeal, photographs and prior resolution. The Board also considered Appellant's submissions.

The Board considered arguments from the Appellant and the explanation of the Zoning Officer.

After consideration of the record, the Board voted to reverse the decision of the Zoning Officer and authorize the issuance of a zoning permit.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject lot is located in the R-7 Zone.

2. The Appellant had previously been granted a variance in order to construct a deck off the rear of the existing home. That application was somewhat unusual in that the proposed deck was going to be elevated rather than at ground level. Because of the slope of the backyard, to one standing at the rear property line and looking at the house it would appear that the deck came off the second floor of the house rather than the first floor of the house.

3. As a function of the unusual elevation of the deck above grade, the lawn area under the deck is clearly visible and accessible. However, it does not appear that the area under the deck receives adequate sun to maintain the grass in that area. As a result, the grass has died off and the area is somewhat unsightly.

4. Appellant sought a permit to install pavers on the ground in the area beneath the previously approved deck. The effect of that proposed development would be to eliminate some area of pervious ground with impervious pavers. The question presented was whether such area was to be considered pervious for purposes of the zoning ordinance since it was under an impervious deck whose area had been considered by the Board in ruling on its prior variance. That is, the Board's prior variance allowed for the construction of the deck and steps leading from the deck to the ground. Had the deck been at ground level, there would be no grassy area under it observable.

5. The Board expressed its appreciation for the novelty of the question. The issue was whether this application should be considered as one that was actually increasing the impervious coverage as defined by the Ordinance.

6. The Board determined that although the Appellant may actually be increasing the amount of impervious coverage on the lot, he was not *legally* increasing the amount of impervious coverage because the area below the deck was previously calculated by the Board as impervious coverage.

7. The Board determined that it would be unfair to essentially count the same area twice for purposes of calculating impervious coverage.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the zoning officer's denial of a zoning permit for the installation

of impervious pavers under the area of the existing deck is *REVERSED* and the Applicant's appeal is granted.

Motion by: Mulholland; seconded by Burns

Board members voting to affirm the zoning officer's denial of a zoning permit: None

Board members voting to reverse the zoning officer's denial of a zoning permit: Burns, Partenheimer, Mulholland, Pukenas, Sweet, Shanahan and Bonetti.

CERTIFICATION

I hereby certify that the foregoing is a true, accurate, and complete copy of the resolution of memorialization adopted by the Zoning Board at its regular monthly meeting on July 21, 2020, memorializing action taken by the Zoning Board on June 16, 2020.

Tavis A. Karrow, Board Secretary