

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

APPLICATION NUMBER: ZBA #2021-09
PROPERTY ADDRESS: 22 Treaty Elms Lane [B 64.07 L 8]
NAME OF APPLICANT: Nicholas Andrew Schultz
OWNER OF PROPERTY: Nicholas Andrew Schultz
DATE OF HEARING: March 16, 2021
RESOLUTION NO. ZBA #2021-09
APPEARANCES: Nick Schultz, Owner/Applicant
Tavis Karrow, Board Secretary
Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson
Wayne Partenheimer, Vice-Chairperson
Brian Pukenas
Brian Mulholland
Steve Sweet
Frank Troy
William Shanahan (Alternate I)

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: R5
LOT DIMENSIONS: 100' x 125'
LOT AREA: 12500 sf
STREET FRONTAGE: 100'
STRUCTURES ON LOT: Two story single-family residence with attached garage

DEVELOPMENT PROPOSAL

The proposal is to cover the existing paver patio in the rear yard. Currently the existing uncovered patio is beyond the required rear yard setback requirement.

RELIEF/VARIANCE REQUESTED

Section 135-30D(2)(d): to permit a rear yard setback of 37' which is existing and will remain where 40' is required.

SUBMISSIONS

Application

Survey, prepared by James T. Sapio, PLS, dated 2-14-2014

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant presented the application to the Board. The Applicant proposes to cover the existing patio that extends off the back of his house. There will be no walls on the side except for the house-side. The Applicant seeks variances from the rear yard setback requirement. This patio existed prior to this application but constructing the roof over it transforms thus patio from only impervious to building coverage.

Bob Fent, a neighbor from Gill Road, spoke out in favor of the application.

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 variances can be granted under NJSA 40:55D-70c(2).
7. The requested variances, while technically increasing building coverage, does not change the impervious coverage of the Property.
8. The application advances the purposes of the MLUL in that it encourages the municipal action in the development of lands in a manner which will promote the general welfare.
9. The granting of the variances does not represent any detriment to the zone plan or ordinance.
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: Partenheimer, seconded by Pukenas

Board members voting to grant the requested variances: Burns, Partenheimer, Mulholland, Sweet, Troy, 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 public 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 April 20, 2021, memorializing action taken by the Zoning Board on March 16, 2021.

Dated: _____

TAVIS KARROW, Secretary