

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

APPLICATION NUMBER: ZBA #2021-06

PROPERTY ADDRESS: 15 Potter Street [B 23 L 20]

NAME OF APPLICANT: 15 Potter Street, LLC

OWNER OF PROPERTY: Joyce Miller

DATE OF HEARING: February 16, 2021

RESOLUTION NO. ZBA #2021-06

APPEARANCES: David Gottardi, Partner of Applicant

 Michael Lario, Esquire, Counsel for Applicant

 Travis Greiman, Board Engineer

 Tavis Karrow, Board Secretary

 Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson

Wayne Partenheimer, Vice-Chairperson

Brian Mulholland

Steve Sweet

Frank Troy

William Shanahan (Alternate I)

Brittany Bonetti (Alternate II)

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: R7
LOT DIMENSIONS: 74' x 135'
LOT AREA: 10,672 sf
STRUCTURES LOCATED
ON LOT: Two story single-family residence

DEVELOPMENT PROPOSAL

The proposal is to renovate the existing two-story dwelling and convert it from an office building to a multi-family dwelling. The house is situated in a zone that only allows single family dwellings. Applicant is requesting a use variance to allow two units be constructed inside the property. From the exterior, it will appear as it currently does (a single-family home) but be renovated. Two three bedroom units will be divided by floors, one unit on the first floor and a second unit located on the second floor. There will be three parking spaces provided for each unit.

RELIEF/VARIANCE REQUESTED

Section 135-32A(1): to permit a multi-family dwelling where only single family detached dwellings, publicly owned parks and municipal buildings or uses are allowed.

Section 135-32D(4)(b): to permit impervious coverage of 57.6% where 40% is the maximum allowed.

SUBMISSIONS

Application

Survey, prepared by Walter H. Macnamara Assoc Inc, dated December 17, 2020

Architectural plans and elevations, prepared by Edwin J. Jesiolowski, Architect, dated January 12, 2021

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant's counsel, Michael Lario, Esquire presented the application to the Board. The Applicant proposes to renovate the exterior of the home and renovated the interior to create two units. The Applicant is requesting relief from the current single family use requirement because of its unique location behind an office building on Kings Highway and across the street from a large apartment complex on Potter Street. Its location is also a major county intersection and a very busy roadway. The Applicant also seeks a variance from the impervious coverage allowance. It proposes to reduce the coverage from 70% to 57.6% but this is still above the maximum allowed of 40%.

David Gottardi, a partner of the Applicant, testified that the renovation will reduce impervious coverage. He stated that the property has been for sale for three years and no one has been interested in using the property as an office (its current use) or as a single-family home (its permitted use). Architect Edwin J. Jesiolowski spoke about the design of the interior of the building and how it is ideal for two units. He testified that the square footage is too large for one single-family home.

Neighbors Eileen Stitwell, Michael Stitwell, Barb Miller and Steve Miller spoke out against the application citing more cars and more students in the school. Michael Stilwell also mentioned that many single-family houses exist along Potter Street and it is feasible to find a buyer that wants that.

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 D(5) variance, the Applicant has to show the site is particularly suited for the use requested, despite the fact that the local zoning ordinance prohibits that use in this location.
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;
6. For both the D and C variances, The Applicant has to show that the variances do not cause “substantial detriment to the public good”; (4) theirs 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.
7. The Applicant has provided testimony as to the existing/proposed use of the building on this specific property.
8. The existing dwelling is in poor condition and the proposed improvements will provide a more desirable visual environment.
9. The requested variance from impervious, while still nonconforming, is an improvement from the existing impervious coverage of 70%.
10. The application advances the purposes of the MLUL in that it promotes the general welfare.
11. The granting of the variances does not represent any detriment to the zone plan or ordinance.
12. 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: Sweet, seconded by Mulholland

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

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 March 16, 2021, memorializing action taken by the Zoning Board on February 16, 2021.

Dated: _____

TAVIS KARROW, Secretary

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

APPLICATION NUMBER: ZBA #2021-01

PROPERTY ADDRESS: 201 Windsor Avenue [B 11.04 L 1]

NAME OF APPLICANT: Sean A. Perry

OWNER OF PROPERTY: Sean A. Perry

DATE OF HEARING: January 19, 2021

RESOLUTION NO. ZBA #2021-01

APPEARANCES: Lindsey Watson McCarthy, Esquire, Attorney for Applicant

 Sean A. Perry, Applicant

 Jason L. Vico, AIA, NCARB

 Travis Greiman, Board Engineer

 Tavis Karrow, Board Secretary

 Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson

Wayne Partenheimer, Vice-Chairperson

Brian Mulholland

Brian Pukenas

Steve Sweet

Frank Troy

William Shanahan (Alternate I)

Brittany Bonetti (Alternate II)

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: R7
LOT DIMENSIONS: 50' x 145'
LOT AREA: 7250 sf
STREET FRONTAGE: 50'
STRUCTURES LOCATED
ON LOT: Two story single family residence

DEVELOPMENT PROPOSAL

The proposal is to add a bedroom and full bathroom overtop an existing floor plan. The building expansion will expand the existing non-conforming side yard setback and thus the combined side yard setback by 5 feet on one side and 1.52 feet on the other for a combined setback of 6.52'.

RELIEF/VARIANCE REQUESTED

Section 135-32D(2)(b): To permit a side yard setback of 5 feet where a minimum of 10 feet is required.

Section 135-32D(2)(a): To permit a front yard setback of 8'11" where 20' is required.

SUBMISSIONS

Application

Survey, Walter H. Macnamara Assoc Inc, dated 8/2/19

SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant's counsel, Lindsey McCarthy gave a brief overview of the project and introduced the architect and the applicant for a more detailed explanation. The plan is to expand the existing structure going upward by adding a bedroom and full bathroom over the existing first floor. The existing footprint of the home with all existing setbacks will be maintained. The nonconforming side yard setbacks are existing and will be expanded only in the sense that an addition is going on top of it.

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 existing/proposed use of the building.
6. The Board determined that a combined side yard setback variance is not needed because it is a corner lot and therefore has two front yards and only one side yard.
7. A front yard setback variance is required on the Wood Lane side where the setback is 8'11" and 20' is required.

8. The expansion will advance the purposes of the MLUL in that it encourages use which will promote the general welfare.
9. There are no detriments from the deviation because this nonconformity is existing and is only expanding the nonconformity vertically which has little impact on the surrounding community.
10. The granting of the variances does not represent any detriment to the zone plan or ordinance.
11. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
12. 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: Troy, seconded by _____

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

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 February 16, 2021, memorializing action taken by the Zoning Board on January 19, 2021.

Dated: _____

TAVIS KARROW, Secretary

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

APPLICATION NUMBER: ZBA #2021-05
PROPERTY ADDRESS: 213 Ardmore Avenue [B 11.15 L 4.02]
NAME OF APPLICANT: Winchris Developers, LLC
OWNER OF PROPERTY: Winchris Developers, LLC
DATE OF HEARING: February 16, 2021
RESOLUTION NO. ZBA #2021-05

APPEARANCES: Chris Ryan, Owner of Applicant
Laura M. D'Allesandro, Esquire
Travis Greiman, Board Engineer
Tavis Karrow, Board Secretary
Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

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

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: R7
LOT DIMENSIONS: 50' x 125'
LOT AREA: 6250 sf
STREET FRONTAGE: 50'
STRUCTURES LOCATED
ON LOT: Two story single-family residence and a detached garage

DEVELOPMENT PROPOSAL

The proposal is to renovate the existing two-story dwelling and construct a two-story addition in the rear. Applicant also proposes to remove the existing detached garage and a portion of the driveway.

RELIEF/VARIANCE REQUESTED

Section 135-32D(2)(b): to permit a side yard setback of 5.14' which is existing and will remain where 10' is required.

Section 135-32D(2)(c): to permit a combined side yard setback of 12.09' which is existing and will remain where 20' is required.

SUBMISSIONS

Application

Survey, prepared by Richard S. Humphries, PLC, dated November 21, 2020

Architectural plans and elevations, prepared by Matthew K. Miller, Architect, dated January 5, 2021

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant's counsel, Laura D'Allesandro presented the application to the Board. The Applicant proposes to remodel the entire home using the existing foundation and additional foundation to construct a two-story single-family home with a 266 sf two story addition in the rear of the house. The Applicant will offset the additional building and impervious coverage by removing approximately 724.75 sf of existing impervious coverage, which includes the existing detached garage and a portion of the existing driveway. The Applicant seeks variances from the single side yard setback requirement as well as the combined side yard setback requirement. Both of these nonconformities are existing and they are proposed to remain the same. Chris Ryan, the owner of the Applicant, testified that the renovation will reduce impervious coverage.

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(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 existing dwelling is in poor condition and the proposed improvements will provide a more desirable visual environment.
9. The requested variances are all existing nonconformities due to the location of the existing dwelling on the property.
10. Strict application of the zoning ordinance requirements would result in an undue hardship on the Applicant.
11. The Applicant is removing a significant amount of impervious coverage to bring the property into compliance with all coverage allowances in the R7 zone.
12. The application advances the purposes of the MLUL in that it looks to make the home consistent with other houses in the neighborhood.
13. The granting of the variances does not represent any detriment to the zone plan or ordinance.
14. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
15. 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 Partenheimer

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

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

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Dated: _____

TAVIS KARROW, Secretary

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

APPLICATION NUMBER: ZBA #2020-30

RESOLUTION NO. ZBA #2020-30

PROPERTY ADDRESS: 308 Haddon Avenue [B 132 L 2]

NAME OF APPLICANT: Kennedy Medical Group Practice PC

OWNER OF PROPERTY: 308 Haddon Ave, LLC

DATE OF HEARING: February 16, 2021

APPEARANCES: Keith Davis, Esquire, Attorney for Applicant

Louis Mueller, BWM Construction

Kyleigh Heins, Corporate Manager of Community Wellness

David Uhaze- building code/ADA expert

David Shropshire- traffic engineer

Tiffany Morrissey, PP/AICP- planner

Tavis Karrow, Board Secretary

Jennifer Johnson, Esquire, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson

Wayne Partenheimer, Vice-Chairperson

Steve Sweet

Frank Troy

William Shanahan (Alternate I)

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: D2
LOT DIMENSIONS: 57' x 150'
LOT AREA: 8,550sf
STREET FRONTAGE: 50'
STRUCTURES ON LOT: semi-detached office building

DEVELOPMENT PROPOSAL

The property is currently being used as a medical office and the Applicant proposes to continue the current use even though the use does not comply with the Ordinance's parking requirements.

RELIEF/VARIANCE REQUESTED

Appeal of the zoning officer's notice of violation for lack of parking or, in the alternative, waiver of parking requirement is requested in reliance on plans submitted under approved Resolution #SPR 2018-02 and Application for Zoning Permit # 2019-051.

SUBMISSIONS

- A-1 Photographs of Site
- A-2 Approved Zoning Permit # 2019-051
- A-3 Approved Construction Permits
- A-4 Certificate of Approval

SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant is the lease holder of 308 Haddon Ave ("Applicant"). 308 Haddon Ave, LLC is the owner of the property ("Owner"). The Owner was granted a waiver of site plan by

Resolution SPR 2018-02 to renovate three building including the subject property. In the resolution granting that waiver, the Planning Board stated that the lack of parking is an existing condition and is not exacerbated by the proposed improvements. It also stated that the first floor of the buildings would continue to be used as retail or restaurant space. Subsequently the first floor of 308 Haddon Avenue (one of the three buildings) was leased to Kennedy Medical Group Practice PC. It engaged Louis Mueller of BWM Construction to fit out the interior for a medical office. Mr. Mueller testified that he applied for a zoning permit with the Haddonfield Construction office for just that. It was approved by the zoning officer. The Applicant fitted out the premises for the medical office, occupied the premises and began treating patients. A few months later, it received a notice of violation from the Code Enforcement Officer that it was in violation of the parking requirement for the use in that zone. The Applicant disagreed relying upon the site plan waiver previously granted to the owner and brought this application in front of the Board to resolve the matter.

The Applicant's counsel, Mr. Davis, explained the position of the Applicant. The Applicant relied on the prior site plan waiver resolution from the planning board as well as the approved zoning permit obtained by its contractor. It moved into the building and began operating a medical office. It believes it has a right to continue doing so based on these circumstances and does not believe that any relief needs to be granted by the Board, other than the reversal of the zoning officer's decision. Mr. Davis indicated that the Applicant reserved all of its legal rights to rely upon the approvals previously granted. Mr. David indicated that the Applicant took no exception to the Board granting a waiver from the Ordinance's parking requirements so long as it was exercising jurisdiction over the application pursuant to the zoning officer appeal (N.J.S.A. 40:55D-70a).

Mr. Mueller testified that, on behalf of the Applicant, he applied for a zoning permit with the Haddonfield Construction office to fit out the building for a medical office. The Applicant contends that the approvals previously granted allows it to operate as a medical office.

Applicant's traffic expert, David Shropshire, P.E., testified that there is enough street parking to accommodate the medical office. He also stated that retail and restaurant uses (the two uses specifically stated are permitted in the planning board resolution) are more intensive in terms of parking demands than a doctor's office.

Kyleigh Heins, Corporate Manager of Community Wellness for the Applicant, testified as to the accommodations that take place when a patient with a disability comes to the office for an appointment. She indicated that if a patient requires barrier free access, Kennedy has other facilities to which the patient can be directed. She also spoke about how the parking is less intense than other uses because it is all by appointment only.

Applicant's planner Tiffany Morrissey, P.P., A.I.C.P., stated that the zoning permit gives the Applicant the right to use the building as a medical office.

Applicant's building code expert, David Uhaze, testified that the Americans With Disabilities Act (ADA) allows for the use of alternate accommodations in order to meet barrier free obligations when strict compliance is technically infeasible. In this case, the facility's barrier free obligations can be met by directing patients to other near-by barrier free locations.

Patricia Leiford, a member of the public, spoke out against granting the parking requirement waiver because she takes her husband to a doctor in that practice and he is in a wheelchair. She said there is nowhere for her to park.

Adam Zebryk, Esq. entered an appearance on behalf of 318 Haddon Avenue LLC and related entities which own properties in proximity to the 308 Haddon Avenue. Mr. Zebryk testified on behalf of his client that patients of the medical office use utilize his clients' parking spaces which activities are not authorized.

FINDING OF FACT AND CONCLUSIONS

1. The property is in the D2 zone.
2. The Board has jurisdiction over the subject matter requiring a decision pursuant to N.J.S.A. 40:55D-70a.
3. The Board Secretary had identified as complete all necessary items to apply to the Board for granting a waiver.
4. The Applicant has provided testimony as to the existing/proposed use of the building on this specific property.

5. The owner of the property did previously obtain a site plan waiver which included a waiver for parking associated with the reconstruction/rehabilitation of the subject building.
6. The Applicant did apply and receive a zoning permit to allow for the building fit out of a medical office within the subject premises at 308 N. Haddon Avenue.
7. The zoning officer issued a notice of violation based upon the fact that the ordinance required six (6) parking spaces in total based upon the premises being 2,000 square feet.
8. Since the site plan waiver initially granted to Owner in 2018 set forth proposed retail and restaurant uses, the Board finds that the establishment of a medical office use within the subject building does not intensify or exacerbate parking demands from that previous approval.
9. The Board finds that the grant of a parking waiver for the medical office use is appropriate and warranted under the circumstances and will not negatively impact the Haddonfield ordinance or the public good given the availability of on-street parking in the neighborhood.
10. 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 decision of the zoning officer is affirmed.

Motion By: Burns seconded by Partenheimer

Board members voting to affirm the decision of the zoning officer: Burns, Partenheimer, Troy, Shanahan

Board members voting to reverse the decision of the zoning officer: Sweet

AND, BE IT FURTHER RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that the waiver of the parking requirement be granted.

Motion By: Burns seconded by Sweet

Board members voting to grant the parking requirement waiver: Sweet, Partenheimer, Troy, Shanahan

Board members voting to oppose the parking requirement waiver: Burns

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 March 16, 2021, memorializing action taken by the Zoning Board on February 16, 2021.

Dated: _____

TAVIS KARROW, Secretary

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

APPLICATION NUMBER: ZBA #2021-07

PROPERTY ADDRESS: 111 Centre Street [B 40 L 16.01]

NAME OF APPLICANT: Llinsish F. Alvarez

OWNER OF PROPERTY: Llinsish F. Alvarez

DATE OF HEARING: February 16, 2021

RESOLUTION NO. ZBA #2021-07

APPEARANCES: Llinsish F. Alvarez, Applicant

 Tavis Karrow, Board Secretary

 Jennifer Johnson, Board Solicitor

BOARD MEMBERS PRESENT AND VOTING:

Kevin Burns, Chairperson

Wayne Partenheimer, Vice-Chairperson

Brian Mulholland

Steve Sweet

Frank Troy

William Shanahan (Alternate I)

Brittany Bonetti (Alternate II)

Note: This meeting was conducted virtually by zoom.

PROPERTY DESCRIPTION

ZONING DISTRICT: R7
LOT AREA: 3384sf
LOT FRONTAGE: 20'
STRUCTURES LOCATED
ON LOT: Two story multi-family residence

DEVELOPMENT PROPOSAL

The proposal is to convert the front lawn of the property into two parking spaces for the two units on the right side of this twin home. A curb cut would have to be approved by the Borough as well as a large tree removed from the curb strip.

RELIEF/VARIANCE REQUESTED

Section 135-86B(6)(b): to permit a zero side yard setback where 3' is required
Section 135-86B(6)c: to allow parking in front of the house
Section 135-86C(1): to permit undersized parking spaces

SUBMISSIONS

Application
Survey, prepared by Donovan Surveyors dated 12/3/2020

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant Llinsish F. Alvarez, the owner of the home, presented the application to the Board. The Applicant proposes to pave his front lawn to allow himself to park two trucks on the front lawn of his twin home. To accomplish this, he would need multiple variances, a curb cut and a Borough tree removed from the curb strip. The Applicant testified that he needs to be able to park in front of his home because he currently parks in the municipal lot down the street and it is too far of a walk in the middle of the night if there ever was an emergency. He also said that the parking spot on the street directly in front of his home is often occupied for consecutive days by

his neighbor. Mr. Alvarez said that his twin neighbor already parks one car on its side of the front lawn and he should be permitted to park two.

Neighbors Arthur and Pam DiPadova, Cathy Smith and Chris Thomas spoke up in opposition to the application. They do not feel it is appropriate to have cars park on the front lawns of properties. Chris Thomas also mentioned that taking down a healthy Borough tree while so many trees in town are being killed by disease is not a good idea.

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(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 failed to show how this application can be granted under either NJSA 40:55D-70c(1) and c(2).
7. The Board discussed that this request goes against the parking ordinance of the Borough and is too much of a deviation from what is allowed.
8. The granting of the variances represents a detriment to the zone plan or ordinance.

9. The relief requested cannot be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.
10. 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 denied, pursuant to N.J.S.A. 40:55D-70(c).

Motion By: Burns, seconded by Shanahan

Board members voting to grant the requested variances: None

Board members voting to deny the requested variances: Burns, Partenheimer, Mulholland, Sweet, Troy, Shanahan, 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 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 March 16, 2021, memorializing action taken by the Zoning Board on February 16, 2021.

Dated: _____

TAVIS KARROW, Secretary