

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF  
HADDONFIELD GRANTING VARIANCE APPROVAL TO  
CHRISTINA ADAMS  
ZBA #2020-24**

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A public hearing on this matter was conducted by the Board on November 17, 2020

APPLICATION NUMBER: ZBA#2020-24

PROPERTY ADDRESS: 265 Kings Highway West  
Block 97, Lot 4.02 on the Tax Map

NAME OF APPLICANT: Christina Adams

OWNER OF PROPERTY: Christina Adams

DATE OF HEARING: November 17, 2020  
Held via Zoom® Video

BOARD MEMBERS PRESENT  
AND VOTING: Kevin Burns, Chairperson  
Wayne Partenheimer, Vice-Chairperson  
Brian Mulholland  
Bryan Pukenas  
Steve Sweet  
William Shanahan  
Brittany Bonetti (Alternate II)

BOARD MEMBERS ALSO  
PRESENT: Richard Wells (Alternate III)

APPEARANCES: Christina Adams, Applicant  
Thomas Wagner, Applicant's Architect  
Travis Greiman, Borough Engineer  
Tavis A. Karrow, Zoning Officer & Board Secretary  
Francis X. Ryan, Esquire, Board Solicitor

**PROPERTY DESCRIPTION**

ZONING DISTRICT: R2

STRUCTURES LOCATED  
ON LOT: Two and half story single family residence

## DEVELOPMENT PROPOSAL

1. Alterations to home including "reworking" upper porch, side stair on right side and removal and upgrades to outdoor patio space.

## RELIEF/VARIANCES REQUESTED

1. Variance relief from Section 135-27(D)(4), which allows maximum impervious coverage of 25% and 29% is proposed (33.66% existing).

## SUBMISSIONS

Application and supporting documents.

## SUMMARY OF TESTIMONY AND EVIDENCE

Thomas Wagner the Applicant's Architect was accepted as an expert by the Board. He then presented the particulars of the proposed development. He noted that the property was an undersized lot for the zone since it was "only" 16,200 square feet where 20,000 square feet is required. He also noted that the lot was more narrow than required; it is ninety (90) feet wide where 125 feet is required. The plan is to essentially redesign the rear porch and patio area. As part of the plan portions of an existing concrete patio will be removed on one side of the house and a portion of the concrete will be replaced with asphalt to match the existing driveway. On the other side of the house an existing patio is to be removed as well as a rear retaining wall, steps and landing. A new covered porch and patio will be built over a portion of the old patio. In addition, a second floor porch will be rehabilitated and refurbished. As a result of all of this there will be a net reduction in the total impervious coverage from 33.66% to 29%. Although that is still nonconforming, it is an improvement over the existing condition and in his opinion represents a fair trade off in terms of the architectural design.

The Applicant confirmed the testimony and the overall design plan.

No member of the public appeared or testified.

## FINDINGS OF FACT AND CONCLUSIONS

1. The property in question is located in the R-2 residential zone.
2. The proposal renovations to the house will be in the rear and therefore should not affect the neighborhood scheme or adjoining property owners. The improvements all comply with bulk area requirements.
3. To obtain a (c)(1) variance the Applicant must show the existence of peculiar and practical difficulties to, or exceptional undue hardship upon the Applicant arising out of

(a) the exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon. In this case the placement of the existing home on the lot creates a situation that no development can be performed on the lot without obtaining variance relief.

4. To obtain a (c)(2) variance, the Applicant has the 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 the Zoning Ordinance. A continuing problem in the Borough is with surface water runoff. With this proposed design this property will have less impervious coverage than currently exists. Although not a substantial decrease, it does represent an improvement over the existing conditions and justifies relief under Section (c)(2)

5. The granting of the variance does not represent any detriment to the zone plan or ordinance.

6. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.

7. 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 Board of Adjustment.

### **RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of Adjustment of the Borough of Haddonfield, that subject to the conditions noted below, a variance be granted, pursuant to N.J.S. 40:55D-70(d) to allow the proposed renovation.

### **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 Shanahan

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

Board members voting to deny the requested variances: None

**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 December 15, memorializing action taken by the Zoning Board on November 17, 2020.

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Tavis A. Karrow, Board Secretary

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF  
HADDONFIELD GRANTING VARIANCE APPROVAL TO  
THOMAS McTAGGART  
ZBA #2020-25**

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A public hearing on this matter was conducted by the Board on November 17, 2020

APPLICATION NUMBER: ZBA#2020-25

PROPERTY ADDRESS: 212 Linden Avenue  
Block 114, Lot 7.02 on the Tax Map

NAME OF APPLICANT: Thomas McTaggart

OWNER OF PROPERTY: Thomas McTaggart

DATE OF HEARING: November 17, 2020  
Held via Zoom® Video

**BOARD MEMBERS PRESENT  
AND VOTING:**

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

**BOARD MEMBERS ALSO  
PRESENT:**

Richard Wells (Alternate III)

**APPEARANCES:**

Thomas McTaggart, Applicant  
Travis Greiman, Borough Engineer  
Tavis A. Karrow, Zoning Officer & Board Secretary  
Francis X. Ryan, Esquire, Board Solicitor

**PROPERTY DESCRIPTION**

ZONING DISTRICT: R-5

LOT DIMENSIONS: 75' x 100'

LOT AREA: 7,500 square feet  
STREET FRONTAGE: 60' (Concord)  
125' (Pennbrook)  
STRUCTURES LOCATED  
ON LOT: Two-Story Single-Family Residence

### DEVELOPMENT PROPOSAL

1. Addition of raised deck to rear of house.

### VARIANCES REQUESTED

1. A variance from Section 135-30(D)(4)(a) which limits maximum building coverage to 20% and 20.8% is proposed.
2. A variance from Section 135-30(D)(2)(d) which requires a minimum rear yard setback of forty (40) feet and thirty (30) feet is proposed.

### SUBMISSIONS

Application and supporting documents.

### SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant, Thomas McTaggart presented the application. He testified that this house was newly constructed. The approved construction plans included a patio coming off the rear of the house. That patio was to consist of pavers and was to have been built on ground level. He claims that after construction the patio configuration did not seem to work as well as a deck because of the height of the rear of the house above grade. Therefore, he determined that it would be better to eliminate the ground level patio and replace it with a deck approximately 18-22" above grade. That would make ingress and egress to the house easier as well as access to the ground.

There was considerable discussion among the Board members and the Applicant concerning the recent re-zoning of the neighborhood and other lots surrounding this lot. Applicant suggested that his lot should have been rezoned from R-5 to either R-6 or R-7. If the lot were in either of those zones no variance would have been required. It was also brought out that this lot was created by a recent subdivision that was obtained by the Applicant.

The Board discussed the concept that in terms of impervious coverage it was more beneficial for the property to have less impervious coverage and that replacing a ground level stone paver patio which would be totally impervious with a wooden deck that would be somewhat pervious is generally a better situation and would represent an enhancement over the specific zoning requirements. Moreover, in terms of the effect on the adjoining properties and relief from the rear yard setback, the Board did not believe that there would be any greater impact from a deck 18-22" above grade than a ground-level patio.

John Nosek of 215 Redman Avenue spoke in opposition to the application. It was his opinion that because the house was just built there was no justification for granting relief. If the Applicant had wanted a deck he should have incorporated that into the original home design. He also commented that a reduction in the setback from forty (40) feet to thirty (30) feet represented a 25% reduction which is substantial. For those reasons he was opposed to the application.

### FINDINGS OF FACT AND CONCLUSIONS

1. The property in question is located in the R-5 residential zone.

2. To obtain a (c)(1) variance the Applicant must show the existence of peculiar and practical difficulties to, or exceptional undue hardship upon the Applicant arising out of (a) the exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon. Under these circumstances the Applicant has not established entitlement to relief under Section (c)(1).

3. To obtain a (c)(2) variance, the Applicant has the 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 the Zoning Ordinance. A continuing problem in the Borough is with surface water and rainwater runoff. With this proposed change the property will have less impervious coverage and represents an improvement over the approved design and justifies relief under Section (c)(2)

4. The granting of the variance does not represent any detriment to the zone plan or ordinance.

5. The relief requested can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan.

6. 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 Board of Adjustment.

### RESOLUTION

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of Adjustment of the Borough of Haddonfield, that subject to the conditions noted below, 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.
3. Because the premise for the granting variance relief was the fact that an open deck would be constructed rather than an impervious paver patio, approval is conditioned upon a prohibition of any future enclosure or any other construction over the deck which would inhibit rainwater from passing through the deck.

Motion by: Mulholland, Seconded by Shanahan

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

Board members voting to deny the requested variances: None

### 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 December 15, 2020, memorializing action taken by the Zoning Board on November 17, 2020.

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Tavis Karrow, Board Secretary