

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF
HADDONFIELD GRANTING IN PART AND DENYING IN PART, THE VARIANCE
APPLICATION OF
FIRST LIBERTY CAPITAL
ZBA #2020-01**

A public hearing on this matter was conducted by the Board on January 21, 2020

APPLICATION NUMBER: ZBA#2018-24

PROPERTY ADDRESS: 582 Jobel Drive
Block 10.10, Lot 61 on the Tax Map

NAME OF APPLICANT: First Liberty Capital NJ

OWNER OF PROPERTY: First Liberty Capital NJ

DATE OF HEARING: January 21, 2020

BOARD MEMBERS PRESENT
AND VOTING:

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

APPEARANCES:

Robert Baronowski, Esquire, Attorney for Applicant
John Kornick, Applicant's Architect and Planner
Thomas Wagner, Applicant's Architect
Greg Sullivan, Borough Engineer
Tavis Karrow, Zoning Officer and Secretary
Francis X. Ryan, Esquire, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT: R-2

LOT DIMENSIONS: 130' x 160.29' x 130.67' x 147.11' (irregular)

LOT AREA: 19,981 +/- square feet
STREET FRONTAGE: None
STRUCTURES LOCATED ON LOT: One-story, single family residence

DEVELOPMENT PROPOSAL

1. Construction of a second-story addition over the existing home and a new porch.

RELIEF/VARIANCE REQUESTED

1. A variance from Section 135-27(D)(4)(a) which permits maximum building coverage of 15% and 15.6% is proposed.
2. A variance from Section 135-27(D)(4)(b) which limits total impervious coverage to 25% and 34.2% is proposed (and 32% +/- existing).

SUBMISSIONS

Application and supporting documents.
A-1 Variance Plan
A-2 Floor Plans

SUMMARY OF TESTIMONY AND EVIDENCE

Applicant's attorney provided an overview of the project. The basic proposal is to add a second story over the existing one-story dwelling. The addition itself will follow the line of the existing house.

Applicant's engineer and planner John Kornick then testified. He noted that this was a very unusual situation in that the existing single-family home fronts on Jobel Drive which is a private lane or access drive. A private lane runs across the front of this property and others that eventually leads to Coles Mill Road which is a public street. His research indicates that the property in question has been configured in this manner since at least the 1990's. The Applicant's intention is to perform a major renovation of the building by essentially adding a second floor and adding a porch. Because of this new design, the building area would increase approximately 270 square feet to a total of 15.6% coverage which is .6% over the allowable limit. With regard to impervious coverage, if one were to exclude from the impervious coverage calculation the portion of Jobel Drive which is within the boundaries of

the property then there would be no issue as to impervious coverage. However, a portion of the property is covered by Jobel Drive which drives up the impervious coverage. Those conditions with regard to the roadway appear to date back to at least 1953. In any event, the proposal is to marginally increase the impervious coverage by 2.1% to accommodate the new porch.

From a planning perspective, it was his opinion that a two-story building would be consistent with the surrounding neighborhood. He noted that many homes along Jobel Drive have been upgraded and rehabilitated. This particular property has not been well maintained and has fallen into something of a state of disrepair. The addition of a second floor and other external features and improvements will certainly improve the structure. In that way, he believes that relief is appropriate under C(2) because the objectives of the Municipal Land Use Law, 40:55D-2 and in particular subparagraphs (a), (c), (g) and (i) are all advanced by this development. He does not believe that there is any negative impact whatsoever on the neighborhood based upon the addition of a second story.

Thomas Wagner, the Applicant's Architect then testified. He indicated that the creation of a second floor will enable the homeowner to relocate bedrooms from the first floor to the second floor while retaining a guest bedroom on the first floor. He also informed the Board that in the process of adding a second floor, it often becomes necessary to move windows and other doors on the first floor. Sometimes the effort to maintain the existing walls of the first floor create hazards and dangers to the future stability and integrity of the building. For that reason, he had recommended that the existing walls be removed and the building taken down to its foundation or first floor deck and rebuild from there. The Board acknowledged that such may constitute a total destruction of the non-conforming structure as contemplated by our ordinance. Notwithstanding that, the Board indicated its appreciation of that fact and that the Applicant was bringing that to the Board's attention at this time.

Various members of the public then testified. The first was David Kull of 586 Jobel Drive, the next-door neighbor. He was rather enthusiastic about the proposed design and the upgrade. His only concern was with regard to drainage of the driveway. There was discussion with him over the fact that the proposed development involved the addition of a second floor or story which would not increase the footprint or impervious coverage on the lot and therefore the addition should not impact drainage issues. John Gattuso of 880 Longwood Circle then testified. He explained that his property along with several others located on Longwood Circle are "below" or downhill from the property in question and other properties along Jobel Drive. He expressed concerns about drainage and water run-off from this property to the properties belonging to him and his neighbors. He also expressed concerns that by expanding this house you were increasing traffic and the number of residents who needed to rely upon a private lane for access to Coles Mill Road. It was noted that the property was still going to remain a single-family residence even with the addition of a second floor. Bill Curran of 425 Longwood then testified. He expressed concern over the fact that when he has done similar renovations in the past, he has been forced to design

features to conform with code requirements. He observed that there are several non-conforming conditions present and questioned whether there was any justification to make those conditions worse.

After rebuttal by Applicant's Attorney, the matter was closed.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located in the R-2 Residential Zone.

2. 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 the Zoning Ordinance. Here it is determined that the Applicant has satisfied the requirements for (c)(2) variance. The property is in need of rehabilitation, and the proposed additions of a second floor and porch are consistent with the neighborhood scheme. The proposed development reflects an improvement over the existing conditions and furthers the purposes of the MLUL.

3. While the Board acknowledged the merits of the plan to add a second floor and porch, the Board did not believe that Applicant had established a sufficient hardship or any sufficient benefit from increasing the amount of impervious coverage. The Board believed and determined that Applicant could maintain the current level of impervious coverage by removing some extraneous cover thereby compensating for the construction of a new porch.

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 in part and denied in part, 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. While the Applicant is permitted to construct the second floor and add a porch, Applicant must maintain the current level of total impervious coverage and nothing herein shall be construed as authority to increase the existing impervious coverage.

Motion by: Shanahan; seconded by Mulholland

Board members voting to grant the requested variance: Burns, Mulholland, Partenheimer, Troy and Shanahan

Board members voting to deny the requested variances: Steve Sweet

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 February 18, 2020, memorializing action taken by the Zoning Board on January 21, 2020.

Tavis A. Karrow, Board Secretary