

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF
HADDONFIELD GRANTING IN PART AND DENYING IN PART
VARIANCE APPLICATION OF
ROBERT AND SUZANNE PRINCIPATO
ZBA #2015-24**

A public hearing on this matter was conducted by the Board on November 17, 2015.

APPLICATION NUMBER: ZBA#2015-24

PROPERTY ADDRESS: 359 Hickory Lane
Block 81, Lot 2.01 on the Tax Map

NAME OF APPLICANT: Robert and Suzanne Principato

OWNER OF PROPERTY: Robert and Suzanne Principato

DATE OF HEARING: November 17, 2015

BOARD MEMBERS PRESENT
AND VOTING: Linda Kuritzkes, Chairperson
Kevin Burns, Vice Chairman
Susan Baltake
Brian Mulholland
Jeff Arnold
Wayne Partenheimer
Edmund Baum (Alternate I)

ALSO PRESENT: Matt Weko (Alternate II)
Brian Pukenas (Alternate III)
Dominic Fahey (Alternate IV)

APPEARANCES: John Master, Esquire, Attorney for Applicant
Christopher Tantillo, Applicant's Architect
Todd Day, P.E., Borough Engineer
Stephanie Heim, Zoning Officer & Board Secretary
Francis X. Ryan, Esquire, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT: R-6

LOT DIMENSIONS: 70' x 158.94'

LOT AREA: 11,127 square feet +/-

STREET FRONTAGE: 70'

STRUCTURES LOCATED
ON LOT:

Single family residence and garage

DEVELOPMENT PROPOSAL

1. Construction of two-story addition on rear of house.

VARIANCES REQUESTED

1. A variance from Section 135-31D(4)(b) to allow 42.18% of total impervious coverage where 35% is allowed and 41.16% is existing.
2. A variance from Section 135-31B(2)(b) which requires a single side yard setback of 10' and 9.68' is proposed and 7'5 ³/₄" is existing.
3. A variance from Section 135-31D(2)(c) which requires total side yard setbacks of 25' and 19.66' is proposed and (17' 5 ¹/₂" is existing).

SUBMISSIONS

Application and supporting documents.

SUMMARY OF TESTIMONY AND EVIDENCE

Applicant's counsel provided an opening statement. He asserted that the relief could be granted as a hardship under Section N.J.S.A. 40:55D-70(c)(1), but also under (c)(2) as the addition being a benefit. He indicated that the aggregate side yards were not increasing and that the proposed addition would actually result in an increase in the existing side yard setbacks because one of the set of steps that were now in the side yard setback would be turned thereby increasing the side yard setback. With regard to the impervious coverage he indicated that the property was not currently in compliance and that the condition resulted primarily from the fact that the garage was located at the rear of the property which required a long driveway in order to access same. He contended that the increase of approximately 1% was *de minimis*.

Applicant's architect, Christopher Tantillo, then testified. He described the proposed addition and indicated that they had made a concerted effort to construct most of the new addition over existing impervious coverage. Specifically, he noted that an area of a concrete patio and a brick wall would be covered by the addition. He too opined that the new addition would be a benefit to the community and would qualify for a variance under Section (c)(2).

There was considerable discussion among the Board concerning the impervious coverage. Specifically, it appeared that the existing driveway was oversized and that some of the impervious coverage could be removed. There was also a question concerning the fire pit that was shown on the plan and whether that was built prior to the adoption of the current ordinance. The Board felt that the Applicant could make modifications to the property in order to not only increase impervious coverage, but also to reduce it.

FINDINGS OF FACT AND CONCLUSIONS

1. The property in question is located in the R-6 residential zone.
2. The existing improvements are currently in violation of the total impervious coverage in that the total coverage is 41.16% and only 35% is permitted.
3. The lot is conforming and is oversized for the zone.
4. The property contains a large driveway and other parking areas which do not appear to be absolutely necessary. Removal of some of the unnecessary paving or other areas of impervious coverage could be sufficient to offset the size of the proposed addition, thereby eliminating the need for any variance as to any additional impervious coverage.
5. The property also contains a stone fire pit and an area of "rip rap" which may or may not have been installed after the current zoning ordinance was adopted.
6. With regard to the variance from the total impervious coverage allowance, the Board found that Applicant had not met its burden of proof and therefore was not entitled to the relief sought.
7. With regard to the variance from Sections 135-31D(2)(b) and (c) regarding the placement and position of the construction, the Board found that, because the addition would be no closer to the side yard than the existing house and in fact the improvements would result in a greater side yard setback, that entitlement to relief from those provisions was established, and that strict applications of the provisions of the Land Development Ordinance would result in peculiar and exceptional difficulties which justify the granting of a variance with regard to those side yard setbacks.
8. The relief requested with regard to the placement of the addition with regard to the existing side yard setback requirements can be granted without violating the spirit and intent of the zoning ordinance, the zone plan and the Master Plan. However, granting the relief with regard to total impervious coverage would violate the spirit and intent of the zoning ordinance, zone plan and Master Plan.
9. The relief requested with regard to the placement of the addition can be granted without substantial detriment to the public good; however, granting such relief with regard to the total impervious coverage would be a substantial detriment to the public good.
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 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.A. 40:55D-70(c) to allow the proposed development as and where indicated, but that the development is not permitted to increase the existing total impervious coverage which will necessitate the removal of some existing impervious coverage in order to offset the proposed addition.

CONDITIONS OF APPROVAL

1. The applicant is granted relief from the provisions of Sections 135-31D(2)(b) and (c) ONLY, so as to permit the construction of an addition to the existing home in the location shown on the plans submitted.

2. The development must comply with all coverage requirements of the ordinance. That is, no variance has been granted with regard to total building coverage or total impervious coverage. If Applicant elects to construct an addition where proposed the Applicant must either reduce the size of the addition or reduce existing impervious coverage so as to accommodate the addition. By this determination the Board has not waived nor granted a variance from any building or total impervious coverage maximums under the ordinance.

3. Applicant must comply with all other applicable ordinances and codes including but not limited to Shade Tree Ordinance, and all water management requirements.

Motion to approve variance to provide relief from total impervious coverage requirement was moved by: Burns; seconded by Kuritzkes

Board members voting to grant the impervious coverage variance: None

Motion to grant variance so as to allow construction of the addition where indicated by: Burns; seconded by Kuritzkes

Board members voting to grant the requested variance in part and to deny in part: Kuritzkes, Burns, Mulholland and Arnold.

Board members voting to deny the requested variance completely: Baltake, Partenheimer, and Baum.

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, 2015, memorializing action taken by the Zoning Board on November 17, 2015.

Stephanie Heim, Board Secretary