

**BOROUGH OF HILLSDALE  
PLANNING BOARD  
RESOLUTION NUMBER 2022-13  
CASE NUMBER PZ-02-22**

**WHEREAS**, an application has been submitted by Victor Eng (the “Applicant”) for property known as 389 Magnolia Avenue, Hillsdale, New Jersey and identified as Block 1619, Lot 3 (the “Property”); and

**WHEREAS**, the Applicant applied for variances for relief from Section 310.55 Schedule of Uses and Requirements and Section 310.54C General Exceptions; and

**WHEREAS**, the Applicant was not represented by legal counsel; and

**WHEREAS**, the Board considered the report of the Board Engineer, Christopher P. Statile, PE, dated March 3, 2022; and

**WHEREAS**, the Board determined that the application was complete on April 7, 2022 and that a public hearing be conducted by the Board; and

**WHEREAS**, a public hearing was held on April 26, 2022; and

**WHEREAS**, the application was presented at the Board’s April 26, 2022 hearing. The Applicant, Victor Eng, was sworn and testified at the April 26, 2022 hearing; and

**WHEREAS**, along with the application, the Applicant submitted the following:

1. Architectural plan entitled “Eng Residence, 389 Magnolia Avenue, Hillsdale, New Jersey”, prepared by Albert Ondar, RA, A. Ondar Design Architecture, 19 Truman Drive, Marlboro, NJ 07746, dated October 20, 2021, revised to March 22, 2022, consisting of the following:

SP-1: Site plan/Zoning;

D-1: Demolition Plans;

- A-1: Proposed Floor Plans;
- A-2: Proposed Floor Plans;
- A-3: Exterior Elevations;
- A-4: Section/ResCheck/Riser Diagram; and
- E-1: Electrical Plans.

2. Boundary Survey prepared by John A. Loch, PLS, Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, NJ 07652, dated January 26, 2022, consisting of 1 sheet.
3. Letter of denial issued by the Borough Zoning Officer dated January 18, 2022.
4. Photographs of the subject Property and neighboring properties, undated, consisting of 12 sheets; and

**WHEREAS**, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of Hillsdale and provided proof of service of such notice in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the Municipal Land Use Law (the “MLUL”), N.J.S.A. 40:55D-1 to -163; and

**WHEREAS**, the Applicant has submitted proof that a copy of said notifications have been published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of Hillsdale in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the MLUL; and

**WHEREAS**, the Board gave due consideration to all individuals desiring to be heard and after due deliberation, did find and determine that:

A. The Property

1. The Property is located at 389 Magnolia Avenue and is designated as Block 1619, Lot 3 on the tax map of the Borough of Hillsdale.

2. The Property is situated in the R-4 Zone District.

3. Lot 3 consists of 7,500 square feet (0.17 acre) and is located on the western side of Magnolia Avenue between Dwight Avenue and Ralph Avenue in the R-4 Zone District (minimum lot size 7,500 square feet).

4. The lot is improved with a one-story frame dwelling with rear wood deck. An asphalt driveway provides access to the dwelling from Magnolia Avenue. A shed is located in the back of the lot and various walkways exist on the Property.

5. The existing dwelling currently encroaches into the required front yard setback area. The existing dwelling contains three bedrooms.

B. The Application

6. The Applicant proposes to raise the dwelling roof and add a second floor. The first floor is to be renovated, staying within the building footprint except for a new covered front porch. The three bedrooms will be relocated to the new second floor. No improvements to the basement are proposed.

7. The Applicant is proposing a 60 square foot front covered porch that encroaches into the required front yard setback area. Section 310-54C of the Hillsdale Code allows front porches that are less than 40 square feet to encroach 8 feet into the required front yard setback area. The proposed front porch exceeds 40 square feet. Therefore, Section 310-54C is not applicable to the subject application.

8. According to the report of the Board Engineer, Christopher P. Statile, dated March

3, 2022, the Applicant requires the following variances:

Proposed Variances

- (a) Front Yard Setback: 22 feet to the proposed steps where 30 feet is required, a difference of 8 feet.

Existing Variances

- (b) Front Yard Setback: 29.6 feet existing where 30 feet is required, a difference of 0.4 feet.

C. The Hearing

9. The Applicant, Victor Eng, appeared before the Board and gave an overview of the application after he was sworn. The Board Engineer, Christopher P. Statile, PE and Board Planner, Thomas Behrens, PP were also sworn at the onset of the hearing with regard to this application. The Property is located at 389 Magnolia Avenue and contains a ranch-style home. The Applicant is seeking to add a second-floor addition as well as a new front portico. There is an existing non-conforming front yard setback, 29.6 feet exists where 30 feet is required. Mr. Eng testified that the Zoning Officer advised no variances are required for the second-story addition, as it will be built straight up over the existing building. The proposed front portico will be 80 square feet (60 square feet for the platform and 20 square feet for the steps). The front entry exception allows for an encroachment of up to 8 feet into the front yard setback. Since there is an existing encroachment of 6 inches, the proposed encroachment for the portico will be 7 feet 6 inches, in order to adhere to the 8-foot exception.

10. Mr. Eng testified that the home is 1,200 square feet and his family has outgrown it, with three young children. In addition, Mr. Eng testified that he is currently working from home. Given the limited housing inventory in Hillsdale, the Applicant and his family have

chosen to add square footage to the existing dwelling on the Property. The Applicant and his family do not want to leave Hillsdale as they love the town, the schools and their neighbors. Mr. Eng further testified that the size of the proposed portico will be in proportion to the rest of the home with the addition and will improve the streetscape. Mr. Eng stated that the purposes of the Municipal Land Use Law will be improved.

11. Neighboring property owners provided letters supporting the renovations and portico on the Property.

12. In response to a question from Chairman Burleson, Mr. Eng stated he has lived on the Property since 2014 and has 3 young children. In response to questions from the Board about the size of the portico, Mr. Eng clarified that the actual platform is 60 square feet and the stairs, in this instance, do not get counted because they are less than 4 feet in height, so the variance is for a 60 square foot portico where 40 square feet is permitted. In response to questions from Mr. Alter as to whether any of the other houses on the block have a front porch, Mr. Eng responded that the homes are all mirror images of the subject dwelling and none have a front porch. Mr. Eng stated that there are two homes on the next block that have front porches.

13. There were no members of the public appearing either in favor of or opposed to the application.

14. Ed Alter made a motion to approve the application as submitted by the Applicant, which motion was seconded by Scott Raymond. The application was approved unanimously by a vote of 9 to 0.

D. Justification for Relief

15. The Board finds the Applicant has met his burden of proof in support of the variance request.

16. The Board makes the following findings and conclusions with respect to this application:

- A. The Board finds that the application as presented will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough's Zone Plan and Land Use Ordinance.
- B. The proposed construction will go toward the positive criteria. The Board further determined that the Property can accommodate the use and that purpose (i) of the MLUL will be advanced by promoting a desirable visual environment.
- C. Further, the Board finds that using prudent zoning and planning principles, project will not negatively impact the existing neighborhood nor the community as a whole.
- D. The Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.
- E. The Board hereby determines that the Applicant has met the burden of proof to the satisfaction of the Planning Board for variance relief, as proposed by the Applicant.
- F. The Board finds the use is permitted in the R-4 Residential Zone.
- G. The Board finds that using prudent zoning and planning principles, the request for the variances will not affect the existing neighborhood, nor the community as a whole. The Planning Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Hillsdale as follows:

- 1. The Applicant's application has been approved, to wit:
  - (a) Front Yard Setback: 22 feet to the proposed steps where 30 feet is

required, a difference of 8 feet.

2. The application is specifically conditioned upon any and all other approvals required by any governmental entity having jurisdiction over the development, including, but not limited to Bergen County Planning Board approval or waiver, Bergen County Soil Conservation District approval and New Jersey Department of Environmental Protection approval, to the extent applicable.

3. The Applicant shall comply with the comments contained in the reports of the Board Engineer and as stated on the record. All conditions imposed by the Board in this Resolution and on the record shall be complied with by the Applicant.

4. The Applicant shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicant shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.

5. Before any permits are applied for, it is the responsibility of the Applicant to see if there are any open permits or violations and address these before a new permit can be issued.

6. When applying for the permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application.

7. No certificate of occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied.

8. The Applicant shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

9. The Applicant shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit, and shall be responsible for all costs and fees associated with these approvals. Before any permits are applied for, the Applicant shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Construction Official. A signed Board resolution and Board-approved plans shall be submitted with all applications for permits.

10. If other agency approvals modify the plan, same will trigger a return to the Board.

11. The Applicant shall comply with the conditions of the Board and Board Engineer, as set forth herein and in the record.

12. The Applicant shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.

**BE IT FURTHER RESOLVED** that the Chairman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting variances for relief from Section 310.55 Schedule of Uses and Requirements and Section 310.54C General Exceptions for front yard setback, as set forth herein and in the plans, and the Applicant is authorized to advertise the action taken by way of this Resolution in a local newspaper; and, further, the Secretary of the Board is authorized to send copies of this Resolution to the Construction Code Official and the Applicant.

MOVED BY: Ed Alter  
SECONDED BY: Scott Raymond

VOTE: FOR   9   AGAINST   0   ABSTAIN



Eng (389 Magnolia Avenue)  
PZ-02-22

MEMORIALIZATION VOTE:

MOVED BY:

SECONDED BY:

VOTE: FOR AGAINST ABSTAIN \_\_\_\_\_

APPROVED

Attest:

\_\_\_\_\_  
Meredith Kates, Secretary

\_\_\_\_\_  
Dewey Burleson, Chair

I certify that the foregoing is a true copy of the Resolution adopted on May \_\_\_\_\_, 2022.

\_\_\_\_\_  
Meredith Kates, Secretary

Dated: \_\_\_\_\_, 2022