

**BOROUGH OF HILLSDALE
PLANNING BOARD
RESOLUTION NUMBER 2022-15
CASE NUMBER PZ-04-22**

WHEREAS, an application has been submitted by Edward Rilli and Jennifer Rilli (the “Applicants”) for property known as 363 Wierimus Road, Hillsdale, New Jersey and identified as Block 408, Lot 1 (the “Property”); and

WHEREAS, the Applicants applied for bulk variances to construct a two-story addition of the house on the Property; and

WHEREAS, the Board determined that the application was complete on April 26, 2022 and that a public hearing could be conducted by the Board; and

WHEREAS, a public hearing for the application was held on June 28, 2022; and

WHEREAS, the Applicants, Edward Rilli (“Mr. Rilli”) and Jennifer Rilli (“Mrs. Rilli”) of 363 Wierimus Road, were duly sworn to provide testimony in support of the application at the June 28, 2022 hearing; and

WHEREAS, the Applicants were not represented by legal counsel; and

WHEREAS, the Applicants’ Architect, Joseph J. Bruno, AIA (“Mr. Bruno”), was duly sworn and qualified to provide expert testimony in support of the application at the June 28, 2022 hearing; and

WHEREAS, along with the application, the Applicants submitted the following:

1. Photo Index of existing site conditions prepared by Joseph J. Bruno, AIA, 29 Pascack Road, Park Ridge, NJ 07656, dated May 10, 2022 consisting of 8 pages (inclusive of cover sheet); and
2. Engineering Plans prepared by John A. Lock, P.L.S. and Perry E. Frenzel, P.E. of

Azzolina & Feury Engineering, Inc., 80 Madison Avenue, Paramus, NJ 07883, dated January 19, 2022 and revised to May 9, 2022 for Planning Board Submission, consisting of 1 sheet entitled “Site Plan and Soil Erosion & Sediment Control Plan”;

3. Architectural Plans prepared by Joseph J. Bruno, AIA, 29 Pascack Road, Park Ridge, NJ 07656, dated February 15, 2022 and revised to March 5, 2022, consisting of 2 sheets; and
4. Letter of denial issued by the Borough Zoning Officer dated February 17, 2022.

WHEREAS, the Applicants 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 Applicants 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 Applicants 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, all jurisdictional requirements of the applicable state statutes and local ordinance were met; and

WHEREAS, the Board considered the report of the Board Engineer, Christopher P. Statile, PE (“Mr. Statile”), dated April 21, 2022; and

WHEREAS, the Board, after carefully considering the evidence and testimony presented by the Applicants, as well as the Letter of Denial issued by the Zoning Officer, and the report(s) from Board professionals, and has made the following factual findings and conclusions:

A. The Property

1. The Property is located at 363 Wierimus Road and is designated as Block 408, Lot 1 on the tax map of the Borough of Hillsdale.
2. The Property is situated in the R-2 Zone District where the minimum lot size is 15,000 square feet.
3. The Property consists of 14,064 square feet (0.32 acres) and is irregularly shaped with 3 front yards. The lot has frontage on Wierimus Road, Wierimus Lane and the Garden State Parkway.
4. The Property is improved with a bi-level frame dwelling and a rear paver patio. Various fencing exists on the Property.
5. The Property has pre-existing non-conforming conditions with respect to Minimum Lot Area with 14,064 square feet existing where 15,000 square feet is required; Minimum Lot Width with 89.7 feet existing where 100 feet is required; and Minimum Lot Depth with 79.9 feet existing where 150 feet is required.
6. The Property has frontage on two local streets, Wierimus Road and Wierimus Lane, and the Garden State Parkway.
7. In Mr. Statile's April 21, 2022 report, he stated that the Planning Board has in past ignored the Parkway as to front yard setbacks, and considered as the rear of building lots. The Parkway is a Limited Access Highway offering no frontage or access to private lots.

B. The Application

1. The Applicants to construct a one-story addition to the back of the existing dwelling (220 square feet), and both a two-story addition (282 square feet) and a one-story addition (46 square feet) to the western, left, side of the house.
2. The proposed additions encroach into the required setback areas.
3. Pursuant to Mr. Statile's April 21, 2022 report, the application requires the following variance relief:

a. Proposed Variances

- i. Front Yard Setback (Wierimus Road): 34.8 feet proposed where 50 feet is required, a difference of 15.2 feet. Mr. Statile assumed that the distance from the new Covered Platform (front door) is a greater setback than to the fireplace.
- ii. Rear Yard Setback (Garden State Parkway): 15.8 feet proposed where 50 feet is required, a difference of 34.2 feet.
- iii. Patio (Basketball Court) Location, Borough Code § 310-55H(5): Enlarged patio (basketball court) proposed in front yard setback area.

b. Existing Variances

- i. Lot Area: 14,064 square feet existing where 15,000 square feet is required, a difference of 936 square feet.
- ii. Lot Width: 89.7 feet existing where 100 feet is required, a difference of 10.3 feet.
- iii. Lot Depth: 79.9 feet existing where 150 feet is required, a difference of 70.1 feet.

- iv. Front Yard Setback, Wierimus Road: 36.4 feet existing where 50 feet is required, a difference of 13.6 feet.
- v. Secondary Front Yard Setback, Wierimus Lane: 24.7 feet existing where 50 feet is required, a difference of 25.3 feet. Mr. Statile's report advised that this is the former road right-of-way before the Parkway was constructed.
- vi. Rear Yard Setback, Garden State Parkway: 24.3 feet existing where 50 feet is required, a difference of 25.7 feet.

C. The Hearing

1. The Applicants' Architect, Mr. Bruno, appeared before the Board and gave an overview of the application after he was duly sworn and qualified. Specifically, the Applicants propose to construct an addition to flip the current location of the kitchen and dining room. The home is a bi-level and the application would add a terrace above the new addition.
2. Mr. Bruno testified that the proposed additions do not expand the envelope of the home a significant amount but the variances are required due to the irregular angle and shape of the Property, which backs up to the Garden State Parkway. Mr. Bruno further opined that the application is not an over extension of the house and the scale is similar to other homes in the neighborhood.
3. In response to questions from the Board, Mr. Bruno testified that the application did not require a variance for impervious coverage. Mr. Bruno further explained that the existing paver patio in the rear of the home is used as a basketball court but no new court would be installed. Further, Mr. Bruno testified that the patio/basketball court

- requires a variance because it is technically in the front yard along the Garden State Parkway but is in the rear of the home.
4. In response to additional questions from the Board, Mr. Bruno testified that the Property is one of the most constrained lots with which he has had to work but the improvements do not encroach on the side of the Property that is abutting a neighbor.
 5. In response to additional questions from the Board, Mr. Bruno testified that the trees in the front yard are in good condition and are not a variety that deer tend to like. In addition, Mr. Bruno testified that no trees are proposed to be removed.
 6. In response to concerns from the Board Engineer, that Applicants agreed to increase the size of the seepage pit on the Property to 500 gallons.
 7. There were no members of the public appearing either in favor of or opposed to the application.
 8. Councilman Horvath made a motion to approve the application as submitted by the Applicants and as discussed on the record, which motion was seconded by Mr. Alter. The application was approved unanimously by a vote of 7 to 0.¹

D. Justification for Relief

1. The Board found good cause to grant the Applicants' request for variances for the addition to the dwelling.
2. The Board considered the Applicants' expert, Mr. Bruno's testimony and opinion that the Property is uniquely shaped and encumbered by 3 front yards, which could be considered a hardship.

¹ Mr. MacEwen arrived late to the hearing of this application and did not participate or vote.

3. The Board found that the Property is a uniquely shaped corner lot with 3 street frontages and, as such, is encumbered by 3 front yards.
4. The Board found that the proposed addition is not excessive, fits in with the character of the neighborhood and does not encroach into setbacks abutting the neighboring property owner.
5. The Board found that the proposed addition would have minimum impact, if any, on adjacent properties because it conforms with setback requirements along the neighboring property line and impervious coverage requirements.
6. The Board found that the proposed addition would have a minimum impact, if any, on the surrounding neighborhood and would not be noticeable from the street due to existing landscaping on the Property and due to the angle and location of the Property bounded by 2 local streets and the Garden State Parkway.
7. The Board found that the grant of the variance would have a minimum impact, if any, on surrounding properties within the R-2 Zone District. No one from the public or within 200 feet of the Property appeared in opposition of the application.
8. Accordingly, the Board found that the variance relief may be granted pursuant to N.J.S.A. 40:55D-70(c)(1), for the reasons discussed hereinabove. The hardship on the Property was not self-created by the Applicants and the hardship inhibits the extent to which the Property can be used. See Commons v. Westwood Zoning Bd. of Adjustment, 81 N.J. 597, 606 (1980) (discussing self-imposed hardship); Kaufman v. Planning Bd. for Warren, 110 N.J. 551 (1998); and Lang v. N. Caldwell Bd. of Adjustment, 160 N.J. 41, 54-55 (1999) (discussing hardship standard). The Applicants established and the Board found that the variance may be granted without

substantially impairing the intent and purpose of the Master Plan and/or Zoning Ordinance, without causing substantial detriment to the public good, and will enhance the residential use of the Property.

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

1. The Applicants' application has been approved, to wit:
 - a. Front Yard Setback (Wierimus Road): 34.8 feet proposed where 50 feet is required, a difference of 15.2 feet.
 - b. Rear Yard Setback (Garden State Parkway): 15.8 feet proposed where 50 feet is required, a difference of 34.2 feet.
 - c. Patio (Basketball Court) Location, Borough Code § 310-55H(5): Enlarged patio (basketball court) proposed in front yard setback area.
 - d. Continuation of pre-existing non-conforming conditions.
2. The Applicants shall increase the size of the seepage pit on the Property to 500 gallons.
3. 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.
4. The Applicants 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 Applicants.

5. The Applicants 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 Applicants shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.
6. Before any permits are applied for, it is the responsibility of the Applicants to see if there are any open permits or violations and address these before a new permit can be issued.
7. When applying for the permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application.
8. No certificate of occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied.
9. The Applicants shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.
10. The Applicants 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 Applicants 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.
11. If other agency approvals modify the plan, same will trigger a return to the Board.

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

13. The Applicants 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 bulk variances for relief for front yard setback, as set forth herein and in the plans, and the Applicants 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 Applicants.

MOVED BY: Councilman Horvath
SECONDED BY: Edwin Alter

VOTE: FOR 7 AGAINST 0 ABSTAIN

MEMORIALIZATION VOTE:
MOVED BY:
SECONDED BY:

VOTE: FOR AGAINST ABSTAIN

APPROVED
Attest:

Meredith Kates, Secretary

Dewey Burleson, Chair

Rilli (363 Wierimus Road)
PZ-04-22

I certify that the foregoing is a true copy of the Resolution adopted on July _____, 2022.

Meredith Kates, Secretary

Dated: _____, 2022