

**BOROUGH OF HILLSDALE  
PLANNING BOARD  
RESOLUTION NUMBER 2021-13  
CASE NUMBER PZ-07-20**

**WHEREAS**, an application has been submitted by Albino and Hailey Matesic (the “Applicants”) for property known as 61 Cedar Street, Hillsdale, New Jersey and identified as Block 1119, Lot 4 (the “Property”); and

**WHEREAS**, the property is owned by K. and W. Egeland, et al., 61 Cedar Street, Hillsdale, New Jersey; and

**WHEREAS**, during the hearing, Hailey Matesic testified that she, her mother and stepfather own the subject property; and

**WHEREAS**, the Applicants applied for a variance for floor area ratio (“FAR”) pursuant to N.J.S.A. 40:55D-70(d)(4) and a (c) bulk variance for maximum impervious coverage in order to construct a two-story addition on the site; and

**WHEREAS**, the Applicants represented themselves at the initial hearing of March 23, 2021 with regard to the subject application; and

**WHEREAS**, the Applicants were represented by Steven Segalas, Esq. at the April 8, 2021 hearing; and

**WHEREAS**, Mayor John Ruocco and Zoltan Horvath recused themselves from the hearing of this application; and

**WHEREAS**, the Board considered the reports of Christopher P. Statile, PE, dated November 30, 2020, April 6, 2021 and April 21, 2021; and

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

**WHEREAS**, public hearings were held on March 23, 2021 and April 8, 2021; and

**WHEREAS**, the application was presented at the Board's March 23, 2021 and April 8, 2021 hearings. Frank Kalata, RA, of Home Architect Studio, 211 Paterson Avenue, Midland Park, NJ 07432, who was duly qualified and sworn, testified at the April 8, 2021 hearing; and

**WHEREAS**, Albino and Hailey Matesic provided testimony after being duly sworn; and

**WHEREAS**, Christopher P. Statile, PE (Board Engineer) was duly sworn and testified at the March 23, 2021 and April 8, 2021 hearings; and

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

1. Architectural plan entitled "Renovations to: Matesic Residence, Block: 1119, Lot: 4, 61 Cedar St., Hillsdale, NJ 07642", prepared by Frank Kalata, RA, of Home Architect Studio, 211 Paterson Avenue, Midland Park, NJ 07432, dated July 10, 2020; and

**WHEREAS**, after the March 23, 2021 hearing, revised plans were submitted, dated July 10, 2020, revised to April 2, 2021, consisting of the following:

- Sheet T-001: Title Sheet & Site Plan;
- Sheet A-001: Floor Plans, Wall Types & Pl. Riser;
- Sheet A-002: 2<sup>nd</sup> Floor, Roof Plans & Details;
- Sheet A-003: Elevations;
- Sheet A-004: Refl. Clg., Elec. Plans & Details; and
- Sheet A-005: Schedules & Details.

**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 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 61 Cedar Street, designated as Block 1119, Lot 4.
2. The property is situated in the R-3 Residential Zone.
3. Lot 4 consists of 9,100 SF (0.21 acre) and is located on the west side of Cedar Street, south of Hillsdale Avenue, in the R-3 Zone District (minimum lot size 10,000 SF).
4. It is improved with a two-story frame dwelling with porches, a front walkway and a shed. A large paved driveway provides access to Cedar Street from a garage on the basement level (northwest corner). The existing lot is non-conforming for area, minimum width and impervious coverage. The existing dwelling is also non-conforming for front yard setback.

B. The Application

5. The Applicants propose to construct a two-story addition with a 223 SF footprint to reconfigure the interior of the dwelling. One additional bedroom is proposed on the second floor. The proposed addition height is 26.83 feet, where the maximum allowed is 35 feet. The maximum building coverage is calculated at 20.41%, where a maximum of 25% is allowable.

The proposed first story of the addition will be an office. The proposed second story will include an additional bathroom. The proposed basement will be for storage. The existing interior stairs will be removed and new stairs constructed within the addition.

6. The Applicants testified the addition is necessary for their growing family. When they purchased the home, there were just the two of them. The Applicants have two young children, one of which sleeps in the hallway because the existing home cannot presently accommodate a bedroom for the Matesic's older child.

7. If the variance application is approved, after construction the first floor addition will contain the reconfigured stairs and an office. The second floor will consist of a master bedroom and bath with a walk-in closet, two additional bedrooms and two additional bathrooms.

8. The proposed improvements exceed the maximum permitted impervious coverage and floor area ratio, requiring a variance pursuant to N.J.S.A. 40:55D-70(d)(4).

9. According to the report of the Board Engineer, Christopher P. Statile, dated November 30, 2020, the Applicant requires the following variances:

Proposed Variances

- (a) Impervious Coverage: 48.8% proposed vs. maximum 30% allowed, or 1,718 SF over.
- (b) Floor area ratio: 33.73% proposed vs. maximum 30% allowed, or 269 SF over.

Existing Variances

- (c) Lot Area: 9,100 SF existing vs. 10,000 SF required.
- (d) Lot Width: 70 feet existing vs. 100 feet required.
- (e) Front Yard Setback: 25.8 feet existing vs. 30.00 feet required.

- (f) Impervious Coverage: 46.3% existing vs. maximum 30% allowed, or 1,483 SF over.

C. The Hearings

March 23, 2021

10. Christopher P. Statile, PE, the Board Engineer, was duly sworn and testified as to the application. The Applicants wish to put a 223 SF two-story addition at the rear corner of the house. This will increase the impervious coverage to 48.8%, where 30% is permitted. The addition will also increase the FAR to 33.73%, where 30% is allowed. The existing FAR is 29%. The impervious coverage is currently 46.3% and will be increased by 2.5%.

11. Hailey Matesic and Albino Matesic were sworn and testified that the house was purchased seven years ago. The home was built in 1924, and the inside of the home is very tight, causing their older child to sleep in the hallway upstairs. In addition, the stairway off the kitchen is very steep and treacherous, and is not to code. The Applicants inherited this when they purchased the house. Their family is growing and additional room is needed. They are trying to make the home more family-friendly. The proposed addition will square off the house.

12. The Board questioned, in light of the impervious coverage increasing to 48.8%, if the 500 gallon stormwater pit is sufficient. Mr. Statile recommended a 1,000 gallon seepage pit. The Board asked the Applicants if they had added any additions to the home in the past. Ms. Matesic advised that the owner before them had added an addition, but the Applicants have not. The Board also asked if the Applicants have taken any action to reduce the impervious coverage, as 48.8% is high. Ms. Matesic responded that the driveway was in place when they purchased the property. The driveway is very lengthy and increases the impervious coverage, as the garage

is at the back corner of the house. The driveway cannot be relocated as there is insufficient space.

13. In response to a question from the Board, Ms. Matesic testified that they plan to remove the existing stairs in the kitchen and replace them with code-compliant stairs going up to the second floor and down to the basement. A small den will be created on the first floor. On the second floor, the Applicants intend to reconfigure the two existing bedrooms and add a third bedroom.

14. Photographs were submitted to the Board as part of the application, and said photographs were marked as Exhibit A-1.

15. The Applicants testified that they do not know if a FAR variance was granted in connection with the prior addition made to the home. Mr. Statile stated that addition was done a while ago and he did not have the file.

16. The Board requested the Applicants install a 1,000 stormwater storage pit to prevent possible future flooding issues, and the Applicants agreed to same as a condition of approval.

17. The Applicants stated they would be willing to remove the asphalt driveway and replace it with peat gravel to reduce the impervious coverage, as long as still had the ability to get a car into the garage. The Applicants confirmed that no trees will be removed.

18. Discussion followed regarding the removal of the asphalt from the corner of the new addition and the back of the home and replacing it with gravel. The Board was unable to make a decision, as the plans did not contain an appropriate zoning table and failed to describe how the change to gravel would impact the impervious coverage. Mr. Statile advised that it would roughly reduce the impervious coverage by 5%, which more than mitigates the addition.

The Board Attorney advised the Board should have all the correct information before reaching a decision and that the Applicants' architect should provide testimony. The Applicants were requested to provide revised plans to the Board showing the reduced impervious coverage and containing an appropriate zoning table, and the Board required the project architect to appear at the next hearing.

19. The application was adjourned to the April 8, 2021 hearing. The Applicants waived the time frame for the Board to act. An announcement was made at the March 23, 2021 hearing that no additional notice was required.

April 8, 2021

20. At the April 8, 2021 hearing, the Applicants were represented by Steven Segalas, Esq., 80 Broadway, Hillsdale, NJ. He advised the Board that the Applicants submitted revised plans, which plans were revised to April 2, 2021. The impervious coverage has been reduced significantly, per the Board's request at the March 23, 2021 hearing.

21. Mr. Statile, after being duly sworn, testified that the impervious coverage has been reduced to 28% from the existing 46% and is now compliant. This was done by replacing pervious coverage with gravel and pavers. The building coverage is less than 20%, where 25% is permitted. The FAR is 33.73%, which exceeds the 30% minimum by 3.73%, or 339 SF.

22. Frank Kalata, RA was qualified as a licensed professional architect of the State of New Jersey and was duly sworn prior to providing testimony with regard to the plans revised to April 2, 2021. In response to a question from the Board regarding the turn-around radius for a vehicle in the backyard, Mr. Kalata believes there is sufficient space. According to Mr. Kalata, the Applicants intend to utilize the garage to store a motorcycle. Vehicles will be parked on the driveway apron. Mr. Segalas advised the Board that the vehicle in the garage is actually a Fiat,

not a motorcycle, which does not require a large back-out area. The Board was concerned that the 10 foot back-out space is not sufficient for a vehicle to get into or out of the garage, and asked Mr. Statile his opinion as to the revised plan and the safety of the back-out area for the garage. He stated that a 24 foot back-out space is required. However, he stated there is no requirement in the Borough that a garage has to be used for a vehicle. Many home owners in the Borough use their garage for storage. He suggested the Applicants increase the graveled area by the garage, even though it would increase the impervious coverage.

23. The revised plan was placed on the screen for viewing and marked as Exhibit A-2. In addition, several photographs were submitted to the Board, which were marked as follows: A-3 (photograph depicting the rear of the house); A-4 (a west facing view of the premises); A-5 (a southerly facing view of the backyard); and A-6 (a photograph of the subject-westerly facing depiction of the premises).

24. Mr. Kalata testified that the Applicants have done as much as they can to meet the Board's requirements and reduce the impervious coverage to compliance. They have removed the asphalt driveway and replaced it with gravel, and removed the concrete patio area and replaced it with pavers. They have also converted the existing concrete sidewalk to pavers.

25. In response to a question from the Board, Mr. Kalata confirmed that the den/office on the first floor is for private use only, and not commercial use. The Board stated that, if the application is approved, the office in the first floor of the addition is to be just a home office and is not for commercial use, nor will it be rented and same shall be a condition of approval.

26. A Board member noted that there is no Borough requirement that a property owner have a driveway leading to a garage on residential property. In addition, asking the



Applicants to increase the gravel will, once again, put it over the impervious coverage requirement.

27. Mr. Kalata clarified for the Board that there are actually two additions – a two-story addition at the back of the home, which will contain the new stairs and den/office, and there will be a build-out in front on top of the existing living room to enlarge the upstairs master bedroom. He also described the need for the new stairs, as the home is old and the existing stairs are narrow and steep. Mr. Statile commented that, if the Applicants wanted to add a 15' x 15' peat gravel extension at the back northwest corner of the driveway, that would bring the impervious coverage to 30.5%, which is only .5% above the permitted amount. The air conditioner condenser, if placed on the outside of the dwelling, will require an additional 9 SF of impervious coverage. The Applicants moved to amend their application to add the additional 225 SF of gravel in the back, not to exceed 31% impervious coverage, as a condition of approval. Revised plans are to be submitted showing the additional gravel at least ten days prior to the adoption of a memorializing resolution. If the impervious coverage exceeds 31%, the Applicants shall return to the Board for additional relief.

28. The meeting was opened to the public. Clinton, of 555 Hillsdale Avenue, Hillsdale, NJ advised that his back yard connects with the northwest corner of the Applicant's property, and he supports the application. Michael Turzo, the neighbor across the street, supports the application. The neighbors at 55 Cedar Street, Carol and Sean, along with Larry Smith of 539 Hillsdale Avenue, also support the application.

29. The Applicants applied for a floor area ratio variance pursuant to N.J.S.A. 40:55D-70d(4). The Board determined that the Applicants demonstrated that the site will appropriately accommodate a floor area ratio above what is permitted by the Borough's

Ordinance. Randolph Town Center v. Township of Randolph, 324 N.J. Super. 412, 417 (App. Div. 1999). An applicant for a d(4) variance need not show that the site is particularly suited for more intensive development. The inquiry is whether the site will accommodate the problems associated with a floor area larger than that permitted by ordinance. The Applicant must show special reasons to warrant the grant of a d(4) variance. Floor area ratios (“FAR”) are, much like density restrictions, are intended to control the intensity of use. The Board determined the site can accommodate the proposed FAR, which exceeds what is permitted pursuant to Hillsdale’s Ordinance. The proposal will not result in overdevelopment of the site and will not result in substantial detriment to the Zone Plan, Zoning Ordinance, Master Plan and the public good. In addition, the Applicants will install a 1,000-gallon seepage pit as a condition of approval.

30. Revised plans were submitted to the Board following the April 8, 2021 hearing, revised to April 15, 2021 by the project architect, Frank Kalata. The revised plans, inter alia, provide that the total lot coverage is 30.98%, or 2,819 SF, where 30% is allowed. As to the FAR, 30% (2,730 SF) is allowed; 24.85% (2,261 SF) is existing; and 33.73% (3,069 SF) is proposed.

D. Justification for Relief

31. The Board further finds the Applicants have met their burden of proof in support of their request for a FAR variance pursuant to N.J.S.A. 40:55D-70(d)(4). Based on the required method of computation per Hillsdale’s Zoning Ordinance, the FAR for the residence will be slightly above what is permitted by the Borough’s Zoning Ordinance. In the absence of the grant of a (d) variance, the Applicants would be unable to make the improvements. The proposed FAR, is consistent with the neighborhood. The lot is undersized. The site will appropriately

accommodate the proposed FAR in accordance with Randolph Town Center v. Township of Randolph, 324 N.J. Super. 412, 417 (App. Div. 1999).

32. 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 the site will be adequately parked.
- 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 Applicants have met their burden of proof to the satisfaction of the Planning Board for variance relief, as proposed by the Applicants.
- F. The Board finds the use is permitted in the R-3 Residential Zone.
- G. The Board also finds that the application as presented will not substantially impair the intent and purpose of the Borough's Zone Plan and Zoning Ordinance.
- H. 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 for variance for floor area ratio ("FAR") pursuant to N.J.S.A. 40:55D-70(d)(4), to wit:

(a) Floor area ratio: 33.73% proposed vs. 30% maximum permitted, a difference of 3.73% (339 SF).

(b) Impervious coverage: 30.98% proposed v. 30% permitted.

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 NJDEP approval, to the extent applicable.

3. 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 shall be complied with by the Applicants.

4. 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.

5. 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.

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 Applicants shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

9. 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.

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

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

12. 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.

13. The Applicant shall comply with the comments of the Board Engineer.

14. The office in the first floor of the addition shall be for home use only, and shall not be utilized for commercial purposes nor rented out to another individual.

15. Revised plans were required to be submitted by the Applicants depicting the additional 225 SF of gravel, not to exceed a total impervious coverage of 31%. Revised plans prepared by Frank Kalata, revised to April 15, 2021, were submitted prior to adoption of the memorializing resolution.

16. The Applicants shall install a 1,000 stormwater seepage pit.

**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 variance for floor area ratio (“FAR”) pursuant to N.J.S.A. 40:55D-70(d)(4) and a variance for impervious coverage, and the Applicants are 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.

MOVED BY: Scott Raymond  
SECONDED BY: Meredith Kates

VOTE: FOR 7 AGAINST 0 ABSTAIN \_\_\_\_\_

MEMORIALIZATION VOTE:  
MOVED BY:  
SECONDED BY:

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

APPROVED  
Attest:

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

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

\_\_\_\_\_  
Stephen Riordan, Vice-Chair

I certify that the foregoing is a true copy of the Resolution adopted on \_\_\_\_\_,  
2021.

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Meredith Kates, Secretary

Dated: \_\_\_\_\_, 2021