

**JOINT PLANNING BOARD OF THE
BOROUGH OF HILLSDALE**

RESOLUTION 2024-17

VARIANCE APPROVAL

In the Matter of the Application of Jeremy & Ellen Germaine.

WHEREAS, Jeremy and Ellen Germaine (the "Applicant" or "Applicants") are the owners of property located at 59 Central Avenue and designated as Lot 10 in Block 1401 on the Tax Map of the Borough of Hillsdale, located in an R-4 Residential zone (the "Property"); and

WHEREAS, the Applicants filed an Application, number PZ-01-24, with the Borough of Hillsdale Joint Planning Board (the "Board") arising from the denial of a Permit to construct an addition to an existing single-family dwelling on the Property; and

WHEREAS, the Applicants' request for a Permit was denied by the Borough of Hillsdale Zoning Official, Steven Loesner, by letter dated October 31, 2023, stating:

The application for the addition at 59 Central Ave, Hillsdale NJ is *denied* for the following.

C1 Variances

1. Plans indicate a building coverage of 1975.0 sq ft (26.3%) where 25% is allowed.
2. Plans indicate an impervious coverage 3017.8 sq ft. (40.2%) where 35% is allowed.

D4 Variance

1. Plans indicate a gross floor are of 2649.0 sq ft (35.3%) where 35% is allowed.

Existing Conditions:

1. Side yard setback of 5.8ft where 10ft is required.
2. Front yard setback of 16.5ft where 30ft is required. (Porch is included since the primary structure does not meet the setback of 30ft.)
3. Garage front and side yard setback of 2ft each where 10ft is required. (No height indicated on plans.)
4. Impervious coverage of 31.3% where 30% is allowed.; and

WHEREAS, On January 22, 2024, the Applicant filed, with the Board, a Notice of Appeal for Variance Approval pursuant to N.J.S.A. 40:55D-70(c) (the "Notice of Appeal") to appeal the denial of a Permit; and

WHEREAS, a Public meeting was held by the Board on August 8, 2024, in-person, in accordance with Municipal Land Use Law and the Open Public Meetings Act, at which time the Applicant, represented by Bruce Whitaker, Esq., (a) presented proof of notice and publication as required by law; and (b) submitted the following Exhibits in support of Applicant's bulk variance application:

A. Photos taken by the Applicants of the Property and the location of the proposed addition.

B. A survey dated January 30, 2024, signed and sealed by Christopher J. Lantelme, PLS, of Lantelme, Kurens & Associates, PC.

C. A complete application.

D. Architectural plans with coinciding testimony of Scott C. Bella, RA; and

WHEREAS, the Board has reviewed the Exhibits set forth above and the other evidence submitted at the hearing; and

WHEREAS, the Board having heard and considered the testimony presented by the Applicants and the arguments of counsel; and

WHEREAS, the Board recused the elected official members of the Board in light of the D variance as required by the Municipal Land Use Law; and

WHEREAS, no objectors to the application were present.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Borough of Hillsdale makes the following findings of fact and conclusions of law with respect to the within Application:

1. The Property is located in the R-4 Zoning District at 59 Central Avenue and designated as Lot 10 in Block 1401 on the Tax Map of the Borough of Hillsdale.
2. The Property is a regularly shaped rectangular interior lot measuring 50 feet by 150 feet.
3. The R-4 Residential Zone requires lots to be at least 7,500 square feet in area (which the Property satisfies) but it also requires the lots to be 75 feet wide. Due to the narrow nature of the property side yard variances are appropriately granted herein inasmuch as the narrowness of the lot creates

a hardship and makes additions to living space in the side of the lawfully existing home impractical.

4. The Application strictly impacts the back of the house, creating an addition of 275 square feet that is not discernable from the street, but rather "squares off" the rear of the home.
5. The Application expands the existing kitchen, and adds a bathroom, pantry, laundry room, mudroom, and interior stairs to the basement in lieu of the existing and extremely dated Bilco exterior basement doors which presently provides the only basement access.
6. The Application adds drainage improvements to the existing property.
7. The Application does not impact the side yard setbacks.
8. The Application maintains existing conforming setbacks.
9. The Applicants testified to not having any flooding or drainage issues.
10. The Applicants also testified that the roof and siding of the addition will be consistent with the existing structure.
11. The Applicants seek a D(4) Floor Area Ratio ("FAR") variance due to the addition creating 35.3% gross floor area where 35% is allowed.
12. The Applicants also seeks a C(1) variance for building coverage of 26.3%, where 25% is allowed.

13. During the pendency of the Application the Applicants amended the Application to reduce the impervious coverage by adding pavers on the driveway instead of asphalt, thereby eliminating the C(1) variance for impervious coverage which they initially applied .

14. As set forth above, the Application requires variance relief pursuant to N.J.S.A. 40:55D-70(c) and (d) due to the hardship created by the lawfully existing home on the pre-existing the narrow lot.

CONCLUSIONS AND DETERMINATIONS

15. All findings of fact set forth above are made a part hereof as if set forth herein at length.

16. The Board finds that the proposed improvement is acceptable.

17. The Board finds that the Application, as amended during the hearings, creates an improvement that is suitable and acceptable.

18. The Board finds as a fact that due to the FAR variance is de minimis (0.3% over), and ~~completely~~ virtually imperceptible and can be granted without detriment to the public good or any neighboring properties and will not negatively impact any of the neighbors. The harm sought to be avoided through the FAR ordinance is overly large

structures which overwhelm their lot and/or adjoining properties. This harm is non-existent in this instance.

19. The Board also finds as a fact that due to the minimal size of the building coverage variance (1.3% over), as well as the minimal impact of the street view and neighborhood feel, the variance can be granted without detriment to the neighborhood.

20. The Board further finds as a fact that this approval will not substantially impair the intent and purpose of the Hillside Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2, e.g. adequate light, air and open space is provided. Appropriate density remains. The design is creative and is an aesthetic as well as practical improvement.

21. The proposed addition strictly impacts the rear of the home, as noted above, which creates a condition further limiting the impact of the variance relief.

22. The Applicants' replacement of the driveway with pavers, limiting the impervious coverage, provides for better planning through improved drainage.

23. The Applicants will match the siding on the addition to the existing home. An entirely new roof will be installed.

24. The Applicants have proven their entitlement to approval under N.J.S.A. 40:55D-70(d). There is no substantial

impairment to the Zone Plan or Zoning Ordinance. The development is in compliance with the Master Plan. The improvement allows adequate light, air and open space. The proposal represents an important improvement and provides a desirable visual environment to residents.

25. There are no discernable negative impacts from the amended proposed addition. The application's positive criteria outweigh the negative. The Applicant has proven their property can reasonably accommodate any problem associated with the structure being larger than what the floor area permits.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Borough of Hillsdale, based upon the above findings of fact and conclusions of law, that the within application for Variance Approval is hereby granted, subject to the following conditions:

- The Applicant will revise the plans to reduce the impervious coverage with pavers instead of a gravel driveway.
- A 500-gallon seepage pit will be installed.
- The existing garage will not be converted to living quarters.
- The Applicants will revise the plans to display the corrected zoning table, showing pavers, seepage pit, and gutter connections to the drainage system.

- The Applicants shall post such escrows as necessary for site inspections and review by the Board Engineer.

(a) Notwithstanding the approval granted herein, the Applicants shall comply with all the ordinances of the Borough of Hillsdale and all applicable county, state, and federal statutes, ordinances, rules and regulations. Without limiting the foregoing, the Applicant shall comply with any and all applicable requirements of the United States Americans with Disabilities Act;

(b) Unless otherwise addressed herein or at the public hearings before the Board, the Applicants shall comply with the recommendations of the Board and shall further comply with the recommendations of all other officials having jurisdiction with respect to the use of the subject Property.

(c) The Applicants shall obtain the approval (or waiver thereof) of all other governmental agencies having jurisdiction over the proposed development.

(d) The Applicants shall comply with all the stipulations made during the hearing on this Application.

(e) The Applicants shall be required to obtain all necessary permits and approvals from the Construction Official and such other municipal departments as may be necessary.

(f) The Applicants shall post all fees and deposits as required by applicable ordinances of the Borough of Hillsdale

which shall include payment to the Borough's professionals for the review of the within Application and the inspection of work to be performed incidental thereto.

(g) The Applicants shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for it affecting public safety or general welfare if any such condition develops.

(h) The Applicants shall be and remain liable for any and all damages or money loss occasioned by the Borough of Hillsdale or its officers or agents by any neglect, wrongdoing, omissions or commissions by the Applicant or his Agents arising from the making of improvements and shall save, indemnify, hold harmless the Borough of Hillsdale or Board, its officers, agents, employees and all charges, judgments, costs or counsel fees arising from such damages or loss. The Applicant agrees not to commit any public or private nuisance by reason of dirt, dust, debris, air-pollution, noise pollution, gas, smoke, or other occurrences resulting from the construction or installation authorized by the approval of this plan or any building permit issued in pursuit thereof.

(i) The Applicants' failure to comply with conditions set forth with this Resolution shall constitute a failure of the conditions and may be the cause for the revocation of a Building

Permit issued in respect of the contemplated improvements, subject to reasonable notice and the opportunity to cure.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Planning Board of the Borough of Hillsdale upon a roll call vote at a meeting held on September 12, 2024.

A copy of this Resolution shall be given to the Tax Assessor, Applicant, Borough Clerk, Building Department, Zoning Officer and Board Engineer.

ATTEST:

SO APPROVED:

Scott Raymond, Secretary

Meredith Kates, Chairwoman

BOROUGH OF HILLSDALE PLANNING BOARD

VOTING

<u>BOARD MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
Meredith Kates, Chairwoman	x		
Stephen Riordan, Vice Chairman			x
Scott Raymond, Board Secretary	X		
Michael Sheinfield			x
Janetta Trochimiuk			x
Ed Alter	x		
Daniel Friedman			x
Seth Griep	x		
Gia Guzman	x		

<u>ALTERNATE BOARD MEMBERS</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
Arthur Weinberg - Alter. I	x		
Stephen Sammarco -Alter. II			x

Voted on September 12, 2024