

PZ-05-23
Irene Davis Revocable Trust
307 Evergreen Street (Block 1622, Lot 4)

**BOROUGH OF HILLSDALE
PLANNING BOARD
RESOLUTION # 2024-10**

CASE NO. PZ-05-23

WHEREAS, the Planning Board of the Borough of Hillsdale is a duly constituted body as authorized by statute with responsibility to supervise and be concerned with the orderly development and planning of the Borough, as authorized by the statutes and ordinances made and provided; and

WHEREAS, Irene Davis Revocable Trust (the “Applicant”) filed an application with the Planning Board of the Borough of Hillsdale (the “Board”) for property known as Block 1622, Lot 4 on the tax map of the Borough of Hillsdale, located at 307 Evergreen Street (the “Property”), for floor area ratio variance pursuant to N.J.S.A. 40:55D-70(d)(4) and bulk variance relief to construct an addition to an existing dwelling on the Property; and

WHEREAS, Irene Davis Revocable Trust is the owner of the Property; and

WHEREAS, the Board deemed the application to be complete on December 4, 2023 and public hearings were conducted on February 8, 2024 and March 14, 2024; and

WHEREAS, the Applicant was represented by Eric M. Davis, Esq. (“Mr. Davis”) of Davis LLP, 675 West End Avenue, Suite 1B, New York, NY 10025; and

WHEREAS, the Applicant’s Architect, Joseph Bruno, AIA, 29 Pascack Road, Park Ridge, NJ 07656, was present at the public hearings and was duly sworn and qualified to provide expert testimony in support of the application; and

WHEREAS, the public was given notice of the application and had an opportunity to participate in the hearing and no individuals appeared to be heard; 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 property 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 Zoning 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 submitted proof that a copy of said notifications were 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 Zoning 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 Applicant submitted an application and the following supporting documents:

1. Photo Exhibit prepared by Joseph J. Bruno, AIA, dated October 8, 2023, consisting of 8 sheets; and
2. Architectural plan prepared by Joseph J. Bruno, AIA, 29 Pascack Road, Park Ridge, NJ 07656, dated May 8, 2023 with most recent revision dated February 28, 2024, consisting of 2 sheets; and
3. Site Plan prepared by Christopher Lantelme, PE & LS, Lantelme, Kurens & Associates, PC, 101 West Street, Hillsdale, NJ 07642, dated July 17, 2023 with most recent revision dated March 7, 2024, consisting of 1 sheet; and
4. Cover Letter from Joseph J. Bruno, AIA to the Board dated February 28, 2024, consisting of 1 sheet; and

WHEREAS, the Applicant also submitted an initial Letter of Denial issued by Steven Loesner, Zoning Official, dated August 15, 2023, and an updated Letter of Denial issued by the Borough Zoning Official, dated October 24, 2023; and

WHEREAS, the Board Engineer, Christopher P. Statile, P.E. (“Mr. Statile”), issued a review letter on the application, dated November 7, 2023, and an updated review letter on the application, dated March 6, 2024; and

WHEREAS, the Board Planner, Tom Behrens, Jr., PP, AICP (“Mr. Behrens”) issued a review letter dated March 12, 2024 on the application; and

WHEREAS, after carefully considering the evidence and testimony presented by the Applicant’s professionals, as well as the updated Letter of Denial issued by Borough Zoning Official, the Engineering Review Letters issued by Mr. Statile, and the Planning Report issued by Mr. Behrens, and after due deliberation, the Board has made the following factual findings and conclusions:

The Property

1. The Property is a conforming lot and is located on the west side of Evergreen Street between Lincoln Avenue (north) and Dwight Avenue (south) in the R-4 Residential Zone District (minimum lot size 7,500 square feet). The Property contains 7,500 square feet (0.17 acres).

2. The Property is improved with a split-level dwelling. A deck and shed are located to the rear of the dwelling. A macadam driveway provides access to the dwelling from Evergreen Street.

3. The Property has pre-existing non-conforming conditions with respect to the following: (1) front yard setback, where 30.0 feet is required and 23.4 feet is existing; (2) rear yard setback, where 25.0 feet is required and 22.4 feet exists; and (3) impervious coverage, where a maximum 30% is permitted and 38.8% is existing, or 664 square feet over.

The Proposal

4. The Applicant is proposing to construct an addition (with elements of single- and two-story) to the existing house on the Property. The building footprint will be increased, causing multiple non-conformities. The proposed first floor addition will include expansion of the garage and living space. The proposed second story addition adds a new primary bathroom. The number of bedrooms is unchanged.

5. The Board considered the October 24, 2024 Letter of Denial issued by the Zoning Officer and the application documents, which indicated that the proposed application triggered the following relief: (1) front yard setback, where 30.0 feet is required, 23.4 feet is existing and 19.4 feet is proposed; (2) side yard setback, where 10 feet is required, 17.0 feet is existing, and 9 feet is proposed; (3) combined side yard setback, where 30% of lot width is permitted, 46.3% is existing and 29.5% is proposed; (4) rear yard setback, where 25.0 feet is required, 22.4 feet is existing and proposed to remain; (5) building coverage, where 25% is permitted, 23.3% is existing and 31.9% is proposed; (6) impervious coverage, where a maximum 30% is permitted, 38.8% is existing and 43.96% is proposed; and (7) floor area ratio, pursuant to N.J.S.A. 40:55(D)-70(d)(4), where 35% is permitted and 43.96% is proposed.

6. The Board reviewed the application and deemed it complete on December 4, 2023 during its work session. The Board conducted public hearings on the application on February 8, 2024 and March 14, 2024.

Public Hearing January 23, 2024

7. The application was carried on the record to the Board's February 8, 2024 meeting. No testimony was taken.

Public Hearing February 8, 2024

8. Mr. Davis appeared on behalf of the Applicant, Irene Davis Revocable Trust, which is his mother's trust. The Applicant is seeking to make improvements to the Property to accommodate Mr. Davis' mother's age and circumstances. Irene Davis ("Mrs. Davis") would like to spend the rest of her years in the Borough and seeks to renovate the home to accommodate assistance she will need moving forward in the home she has owned since 1968.

9. The Board heard testimony from the Applicant's Architect, Mr. Bruno, who was duly sworn and qualified. Mr. Bruno testified regarding a series of photographs he submitted as part of the application. Photograph 1 is the front or east elevation view of the subject residence, which is a split-level dwelling. Mr. Bruno testified that the original garage was converted to living space at some point in the past and the existing garage was built afterwards. Photograph 2 is the rear or western elevation view of the building and the area of the proposed covered patio. Photograph 3 is the front or east elevation of the residence at 303 Evergreen Street, which is the property immediately to the south of the subject Property.

Photograph 4 is the front or east elevation view of the residence at 315 Evergreen Street. Photograph 5 is the front or west elevation view of the residence at 304 Evergreen Street. Photograph 6 is the front or west elevation view of the residence at 308 Evergreen Street. Photograph 7 is the front or west elevation view of the residence at 312 Evergreen Street.

10. The Board professionals, Mr. Statile and Mr. Behrens, were duly sworn.

11. Mr. Bruno testified regarding the variance relief requested by the application as presented: (1) front yard setback, where 30.0 feet is required, 23.4 feet is existing and 19.4 feet is proposed; (2) side yard setback, where 10 feet is required, 17.0 feet is existing, and 9 feet is proposed; (3) combined side yard setback, where 30% of lot width is permitted, 46.3% is existing and 29.5% is proposed; (4) rear yard setback, where 25.0 feet is required, 22.4 feet is existing and proposed to remain; (5) building coverage, where 25% is permitted, 23.3% is existing and 31.9% is proposed; (6) impervious coverage, where a maximum 30% is permitted, 38.8% is existing and 43.96% is proposed; and (7) floor area ratio ("FAR"), pursuant to N.J.S.A. 40:55(D)-70(d)(4), where 35% is permitted, 32% is existing and 43.96% is proposed.

12. Mr. Bruno testified that the ground floor currently contains an oversize one-car garage, a mud room, a small room being utilized as a bedroom and a small bathroom. The first floor consists of a kitchen, dining room, and informal dining space/sunroom. The upper floor of the split-level home contains three bedrooms and one bathroom. The Applicant proposes a first-floor expansion to the north to provide additional living space and better accessibility in the event Mrs. Davis requires a walker or wheelchair in the future. On the ground floor, the Applicant proposes an enlarged garage that a handicap-accessible van could pull into, a bedroom, bathroom and laundry off of the mud room. On the first-floor level, a raised deck is proposed due to the split-level of the home, as well as a patio at grade. There is a proposed second-floor terrace above the patio, which will provide shade over the patio so Mrs. Davis can enjoy the weather in the shade. The proposed upper-floor expansion is to create a closet and a dedicated bath for the primary bedroom. The existing bathroom will be renovated. There is also the previously mentioned terrace.

13. Mr. Bruno testified regarding the east elevation of the Property fronting on Evergreen Street. The right-hand side of the house will remain as one story. The left-hand side will remain as two stories. However, there will be a two-car garage with a wider door. The south or left elevation will contain the garage expansion and the terrace.

14. Mr. Bruno testified regarding the north/right side elevation facing the house, the garage is to the left. The west elevation is to the rear and depicts the kitchen, the deck with enclosed storage underneath the overhang for the upper floor and the front view of the terrace. There is a door allowing direct access from Mrs. Davis' bedroom to the proposed patio.

15. In response to questions from the Board, Mr. Bruno advised that a 10-inch pine at the southwest corner of the proposed addition and a 22-inch oak tree at the southeast corner will be removed. The Applicant will comply with the requirements of the Shade Tree Ordinance, if approved.

16. In response to additional questions from the Board, Mr. Bruno testified the Applicant seeks to enlarge the existing space in the event Mrs. Davis will need a walker or wheelchair in the future. It would be difficult to navigate within the existing space. Mr. Bruno further testified that three bedrooms currently exist in the house, as well as a small space on the ground floor being utilized by Mrs. Davis for a bedroom. It is an open area with a bed and not a formal bedroom. As to the existing garage, it would be extremely tight for a van to enter same and allow room for Mrs. Davis to enter/exit same.

17. In response to questions from the Board, Mr. Bruno testified that the Applicant is not claiming a hardship variance. A hardship variance goes with the land, not the individual, and is not the case here. The Applicant is applying under the (c)(2) criteria for better planning alternative and public benefit.

18. Several Board members raised concerns regarding the number of variances requested. Mr. Bruno testified that the Applicant is willing to reduce the FAR to 42.22% from the 43.96% proposed by eliminating the main living area/north side addition. This would also reduce the impervious coverage to 37.14%, which is greater than what is permitted but is less than what currently exists. This would reduce the ask on the requested variances but not eliminate any of them. Several Board members stated they would like to actually reduce the number of variances being requested by the Applicant.

19. In response to additional questions, Mr. Bruno testified there is an unfinished basement in the building. The covered porches are included in the FAR, even though they are not enclosed with walls, still is part of the FAR. In addition, the covered patio in the rear contributes to the total FAR calculation, even though it is an open space and only covered with the terrace on the upper floor.

20. In response to additional questions from the Board, Mr. Bruno testified that the 21-foot-wide garage is smaller than most and would be tight for parking two vehicles. The Applicant seeks to expand the garage in order to allow Mrs. Davis to enter/exit a handicap access van out of the elements, and the proposed garage expansion would allow for same. There was additional discussion regarding the garage. Board members noted that the roof on the proposed front addition is flat and does not fit in with the neighborhood. Mr. Bruno responded that it was necessary in order to accommodate the required windows, but it could be changed to a low-slope roof.

21. In response to additional questions from the Board, Mr. Bruno testified that demolishing the existing dwelling and building a new home was not considered because Mrs. Davis raised her family in the home and does not want to see it demolished.

22. Mr. Statile confirmed that the proposed drainage is sufficient.

23. Mr. Bruno testified that the HVAC concrete pads have been included in the calculations and the existing shed is to be removed, in accordance with Mr. Statile's report. The driveway material will be asphalt. The exterior lighting would be standard residential wall sconce lighting. The rear corners would have flood lighting, which would not have any impact on adjacent neighbors. They would be motion activated and shielded.

24. Mr. Statile commented as to the proposed first floor extension where the fireplace is located. Reducing this area would only eliminate one variance, the one for side yard setback aggregate.

25. There was additional discussion by the Board as to the front yard setback, which is already existing at 23.4 feet where 30 feet is required, and the Applicant is proposing a front yard setback of 19.4 feet for the garage extension towards the street. Mr. Bruno opined that the additional length is necessary to accommodate the handicap ramp at the rear of the garage. Also, the Applicant's proposal is for an 8-foot extension on the south side for the expanded garage and additional bathroom. Mr. Bruno testified that the lowest this could be reduced is to 5 feet 6 inches, which the Board felt was an improvement over the requested 8 feet. Mr. Bruno testified that the project could be revised to eliminate the north side extension and requested the Board consider a south side extension of 6 feet, which is a 2-foot reduction from the application request. While this may not eliminate the number of requested variances, it would reduce the overall scope and size of the variances.

26. A short recess was taken so that Mr. Bruno could confer with the Applicant. At the resumption of the meeting, the Applicant agreed to reduce the proposed addition and submit revised plans.

27. The application was carried to the Board's March 14, 2024 meeting. The Applicant was directed to submit revised plans to the Board for review at least ten days prior to the March 14, 2024 hearing date. An announcement was made and no additional notice was required. The Applicant waived the statutory timeframe for the Board to act.

Public Hearing March 14, 2024

28. The Board heard testimony from the Applicant's Architect, Mr. Bruno, who remained under oath. Mr. Bruno testified that the Applicant heard the Board's concerns raised at the prior meeting and made significant reductions. Mr. Bruno explained the changes to the additions, which reduced building coverage and impervious coverage and the FAR. Mr. Bruno testified that stormwater management will be constructed.

29. The variance relief requested by the application as revised: (1) front yard setback, where 30.0 feet is required, 23.4 feet is existing and proposed; (2) combined side yard setback, where 30% of lot width is permitted, 46.3% is existing and 26.9% is proposed; (3) rear yard setback, where 25.0 feet is required, 22.4 feet is existing and proposed to remain; (4) building coverage, where 25% is permitted, 23.3% is existing and 28.1% is proposed; (5) impervious coverage, where a maximum 30% is permitted,

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38.8% is existing and 37.7% is proposed; and (6) FAR, where 35% is permitted, 32% is existing and 40.4% is proposed.

30. Mr. Davis explained that in the summer, Mrs. Davis would want to sit outside and so the improvements were scaled to fit the lot, but the Applicant desired to keep a sun-shaded outdoor space to enjoy with guests.

31. Mr. Bruno testified regarding the photos previously submitted, described the photos, and the neighboring properties that are larger than what is proposed. Mr. Bruno opined that the revised plans is appropriate mass and scale for the streetscape and fits in the character and scale of the neighborhood. Mr. Bruno testified that the application can be granted because the Applicant established the positive criteria, because the application provides a home that is properly scaled and has proper amenities and improves the appearance of the home, and negative criteria, because the proposal does not harm the intention of the zoning ordinance or zone plan, the home is properly scaled despite the variances requested.

32. Mr. Bruno testified that the revised plans eliminated the side yard setback variance, previously proposed.

33. In response to questions from the Board Engineer, the Applicant agreed to plant 4 trees on the Property pursuant to the requirements of the Board Engineering Report.

34. In response to questions from the Board Planner, Mr. Bruno testified that the application will have standard landscaping and lighting, including small LED recessed soffits. The Applicant agreed that the Board would retain jurisdiction over the application regarding lighting for 6 months after completion of construction. The Applicant further agreed to install arborvitae or other plantings of approximately 6 to 7 feet tall at the time of planting screen the patio.

35. In response to additional questions from the Board Planner, Mr. Bruno testified that the application provides public benefits regarding stormwater management, landscaping, aesthetic improvements for the neighborhood and updates the streetscape.

36. In response to additional questions from the Board Planner, Mr. Bruno opined that with the proposed reductions, the addition is modest and out of necessity. Mr. Bruno testified that no generator was proposed.

37. In response to questions from the Board, Mr. Davis explained that he has not received any correspondence from concerned neighbors and Mrs. Davis has a friendly relationship with her neighbors.

38. In response to additional questions from the Board, Mr. Bruno testified that he analyzed the neighboring properties' FARs but eliminated the properties with the smallest and largest FARs to obtain an average of 40.10%, which is in keeping with what is proposed. Mr. Bruno further testified that the proposed garage would be for 2 cars and is not uncommon on the street. No lift is proposed in the garage because it is at grade level.

39. In response to questions from the Board, Mr. Bruno testified that the proposed deck is calculated at 50% impervious coverage but there is no deduction from the FAR. Mr. Davis testified that Mrs. Davis will have access to the patio.

40. The Board discussed the number of variances requested in the original application and as revised. The Applicant agreed to remove the shed on the Property, in accordance with the Board Engineer's report. Mr. Bruno confirmed that the Applicant is not seeking relief based on the (c)(1) hardship test but on the (c)(2) balancing test. Mr. Bruno testified that the application is properly scaled for the neighborhood, provides stormwater management where there is none currently and reduces impervious coverage from what is existing.

41. In response to additional questions from the Board, Mr. Bruno testified that drywell(s) are proposed for the front yard with downspouts directed to the drywells and away from neighboring properties. The Applicant agreed to have the stormwater calculations and locations reviewed by the Board Engineer.

42. In response to questions from the Board, Mr. Davis explained he was not aware of any flooding on the Property but the street does slope down and the proposed stormwater management on the Property will benefit neighboring properties downhill.

43. In response to additional concerns from the Board, the Applicant agreed to install landscaping around the HVAC unit(s) and to remove the existing basketball pole/flag pole on the Property.

44. A brief discussion was held regarding the proofs required for the relief requested and the heightened affirmative vote requirement for the (d)(4) variance.

45. The Board opened the meeting to the public and no individuals appeared to be heard.

46. The Board then entertained a motion to grant the Applicant's application requesting variance relief for: (1) front yard setback of 23.4 feet; (2) combined side yard setback of 26.9%; (3) rear yard setback of 22.4 feet; (4) building coverage of 28.1%; (5) impervious coverage of 37.7%; and (6) FAR of 40.4%, with conditions stated on the record, pursuant to the Borough of Hillsdale's Zoning Ordinance.

47. A motion was made and seconded to grant the application to construct an addition to an existing dwelling on the Property, as depicted in the drawings submitted by the Applicant, and as revised on the record, on the following conditions: (1) the Applicant shall comply with the comments and recommendations in the Board Engineer's report(s); (2) the Applicant shall remove a 10-inch pine at the southwest corner of the proposed addition and a 22-inch oak tree at the southeast corner; (3) the Applicant shall comply with the requirements of the Shade Tree Ordinance; (4) the Applicant shall plant 4 trees on the Property pursuant to the requirements of the Board Engineering Report; (5) the Board shall retain jurisdiction over the application regarding lighting for 6 months after completion of construction; (6) the Applicant shall install arborvitae or other plantings of approximately 6 to 7 feet tall at the time of planting screen the patio; (7) the Applicant shall remove the shed on the Property, in accordance with the Board

Engineer's report; (8) the Applicant shall have the stormwater calculations and locations reviewed by the Board Engineer; (9) the Applicant agreed to install landscaping around the HVAC unit(s); and (10) the Applicant shall remove the existing basketball pole/flag pole on the Property. A vote was taken and the motion passed by a vote of 6 to 1.

Justification for Relief

48. The Board found good cause to grant the Applicant's request for variance relief for a (d)(4) variance and several bulk variances.

49. The Applicant sought a (d)(4) variance for maximum floor area ratio (FAR). An applicant requesting a (d) variance must demonstrate that special reasons exist for the granting of the variance, and that the granting of the variance will further the purposes of the Municipal Land Use Law (MLUL). This is referred to as the positive criteria. For a (d)(4) variance, the applicant is not obligated to show the particular suitability of the site, as required for a 'd'(1) variance, but rather that the site can accommodate the problems associated with the proposed permitted use with a larger FAR than permitted by ordinance. In addition, the applicant must address the negative criteria by proving there will be no substantial detriment to the public good and no substantial impairment to the intent of the Master Plan and Zoning Ordinance.

50. The Applicant sought a (c) bulk variance, of which there are two types a (c)(1) hardship variance and a (c)(2) benefit/detriment variance. To receive a (c)(1) variance, an applicant must establish that the physical features, topographic features, or extraordinary and exceptional situation uniquely affecting the property or structures lawfully existing thereon necessitates the variance to relieve such hardship. To receive a (c)(2) variance, an applicant must establish that the purpose of the MLUL would be advanced by the variance and the benefits of any variance would substantially outweigh any detriment. Further, to obtain a (c)(1) or (c)(2) variance, an applicant must also prove that the relief sought would not be substantially detrimental to the public good and would not substantially impair the intent and purpose of the Borough's zone plan and Zoning Ordinance.

51. The Board considered the application materials, testimony, exhibits and revised plans submitted by the Applicant and the reports of the Board's professionals.

52. The Board further considered the Applicant's professional and factual testimony that the site could support the application, would not cause substantial detriment to the community and would upgrade an older home in the Borough. The Board also considered the Applicant's professional testimony that the application would support the purposes of the MLUL and goals of the Borough's Master Plan regarding upgrading housing stock and improving the aesthetic character residential development. In addition, the Board considered the Applicant's professional testimony that the site could adequately accommodate the requested (c) variances and would not create a substantial detriment.

53. The Board found that the proposed variances could be accommodated on the Property because they would not be out of place in the neighborhood or degrade the appearance of the neighborhood, and is consistent with modern architecture. The problems associated with an increase in FAR were mitigated by the scale of the design, landscaping and stormwater management.

54. The Board found that the Applicant's proposal to install new landscaping would be an improvement from existing conditions and would advance purpose (i) of the MLUL, to promote a desirable visual environment. In addition, the Board found that the Applicant's proposal to install drainage facilities to address stormwater runoff issues on the Property would advance purpose (a) of the MLUL, to encourage appropriate development in a manner which will promote the public health, safety, morals and general welfare, and purpose (b) of the MLUL, to secure from fire, flood, panic and other natural and man-made disasters.

55. In addition, the Board found that the grant of the variance would have a minimum impact, if any, on surrounding properties within the R-4 Zone because of the Applicant and Mr. Bruno's testimony regarding scaling and landscaping; testimony regarding drainage on the Property; and the Applicant's agreement to comply with the Board Engineer's report. The Board further notes that no individuals appeared in opposition to the application.

56. The Board found that the requested variance relief may be granted pursuant to N.J.S.A. 40:55D-70(d)(4) and N.J.S.A. 40:55D-70(c)(2), for the reasons discussed herein. With respect to the (d)(4) variance, the Board found that the Property could accommodate the problems associated with a residential dwelling with a larger FAR. The Board found that the purposes of the MLUL are advanced by the grant of the variance and that the benefits of the deviation substantially outweigh any detriments, and the variance can be granted without substantially impairing the intent and purpose of the Master Plan and/or Zoning Ordinance. The Applicant demonstrated a basis for the grant of the variance pursuant to N.J.S.A. 40:55D-70(c)(2); N.J.S.A. 40:55D-70(d)(4); Randolph Town Center v. Randolph, 324 N.J. Super. 412, 416 (App. Div. 1999); and Kaufman v. Warren, 110 N.J. 551 (1998). The Applicant met its burden of proof. As aforesaid, the Board was satisfied the variance relief could be granted without any substantial detriment to the public good, as well as the zone plan and Zoning Ordinance of the Borough of Hillsdale. The Board determined the grant of the variance relief will not impact surrounding properties in the Zone District.

NOW THEREFORE, BE IT RESOLVED by the Borough of Hillsdale Municipal Land Use Board, Bergen County, New Jersey, that the Applicant's request for variance relief, as described herein, be and is hereby **APPROVED** for the reasons set forth herein and subject to the terms and conditions contained in the body of this Resolution, and as follows:

1. The Applicant shall post all required application fees and provide sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account. No permits or certificates shall be issued, nor will any work be performed by Board professionals or staff at any time that the Applicant's escrow account balance is not paid current, which shall be set forth by certification by the Board Clerk. The Applicant shall have a continuing duty to maintain a positive balance in all escrow accounts until all conditions have been satisfied and all charges have been paid.

2. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and to address and resolve those, if any, before a new permit may be issued. When applying for permits, a copy of the signed Resolution and Board-approved plans must accompany the permit application. No certificate of occupancy shall issue unless all inspections have been performed, passed, and all prior approvals have been satisfied, which includes compliance with all conditions imposed by the Board. Prior to the issuance of a certificate of occupancy, the Applicant shall satisfy all amounts due and owing to the Board's professionals.

3. Completion of the development project and subsequent use of the Property shall be consistent with testimony offered at the public hearing, the plans and renderings submitted with the application and/or as revised, the findings and conclusions of the Board stated herein, and the conditions set forth in this Resolution.

4. The Board's approval is expressly subject to all State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State. 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, including but not limited to the building code, and shall be responsible for all costs and fees associated therewith. The Applicant shall comply with all laws and regulations related to affordable housing and/or the payment of the non-residential development fee, if applicable.

5. The Applicant's obtaining of approvals from all outside agencies shall be a prerequisite for issuance of a building permit, including but not limited to, obtaining written final approval from the Bergen County Planning Board, Bergen County Soil Conservation District, New Jersey Department of Environmental Protection, and the Borough of Hillsdale, if applicable. If other agency approvals substantially modify the approved plan, same will trigger a return to the Board.

6. The Applicant shall apply for and obtain a soil movement permit from the Borough, to the extent same may be required, and shall comply with the reasonable recommendations of the Borough Engineer with respect to same.

7. Revised plans, to the extent necessary, shall be submitted to the Board and the Board professionals for review and approval, to the extent applicable.

8. The Applicant is permitted to replace and expand an existing patio around an existing in-ground swimming pool on the Property, as described in the plans and renderings submitted in the application, as amended on the record, and as set forth in this Resolution. The Applicant is granted the following variance relief: (1) front yard setback of 23.4 feet; (2) combined side yard setback of 26.9%; (3) rear yard setback of 22.4 feet; (4) building coverage of 28.1%; (5) impervious coverage of 37.7%; and (6) FAR of 40.4%. The variances are expressly conditioned upon the following:

- a. The Applicant shall comply with the comments and recommendations in the Board Engineer's report(s).
- b. The Applicant shall remove a 10-inch pine at the southwest corner of the proposed addition and a 22-inch oak tree at the southeast corner.
- c. The Applicant shall comply with the requirements of the Shade Tree Ordinance.
- d. The Applicant shall plant 4 trees on the Property pursuant to the requirements of the Board Engineering Report.
- e. The Board shall retain jurisdiction over the application regarding lighting for 6 months after completion of construction.
- f. The Applicant shall install arborvitae or other plantings of approximately 6 to 7 feet tall at the time of planting screen the patio.
- g. The Applicant shall remove the shed on the Property, in accordance with the Board Engineer's report.
- h. The Applicant shall have the stormwater calculations and locations reviewed by the Board Engineer.
- i. The Applicant agreed to install landscaping around the HVAC unit(s).
- j. The Applicant shall remove the existing basketball pole/flag pole on the Property.
- k. The Applicant's proposed use of the Property shall conform to the requirements and conditions of any prior approvals issued by the Board and the Borough, which are not inconsistent with this Resolution, if applicable.

9. To the extent required, the Applicant shall comply with all recommendations and requirements of the Board Planner and the Board Engineer, subject to the reasonable satisfaction and approval of same and the Board.

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10. The Applicant shall comply with all comments and conditions imposed by the Board, the Board Planner and the Board Engineer, as stated in the reports submitted to the Board, as stated on the record and as may be stated in this Resolution.

11. If the Applicant commence work on the project, same shall constitute acceptance of the above conditions.

BE IT FURTHER RESOLVED that the Chairwoman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting the variances and the Applicant(s) 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 and the Applicant(s).

MOTION TO APPROVE:

MOVED BY: Alter
SECONDED BY: Guzman

VOTE: FOR 6 AGAINST 1 ABSTAIN 0

MEMORIALIZATION:

MOVED BY:
SECONDED BY:

VOTE: FOR _____ AGAINST _____ ABSTAIN _____

APPROVED

Attest:

Scott Raymond, Secretary

Meredith Kates, Chairwoman

CERTIFICATION

I certify that the foregoing is a true and accurate copy of the Resolution adopted by the Hillsdale Planning Board on _____, 2024.

Scott Raymond, Secretary

Dated: _____, 2024