JOINT PLANNING BOARD OF THE BOROUGH OF HILLSDALE

RESOLUTION NO. 2025-18

VARIANCE APPROVAL

In the matter of the Application of Daniel and Shari Kramer.

WHEREAS, Daniel and Shari Kramer (the "Applicants") are the owners of the property located at 41 Craig Road and designated as Lot 6 in Block 103 on the Tax Map of the Borough of Hillsdale (the {"Property"); and

WHEREAS, the Applicants filed an Application, number PZ-05-25, with the Joint Planning Board, Borough of Hillsdale (the "Board") arising from the denial of a Permit for the construction of certain improvements to an existing single-family residence; and

WHEREAS, the Applicants' request for a Permit was denied by the Borough of Hillsdale Zoning Official, Steven Loesner, on March 4, 2025, stating, in pertinent part:

1. Plans indicate an existing impervious coverage of 38.6% with a reduction to 38%. There is no record of a variance being approved for the existing coverage. By code impervious coverage is limited to 30% of the lot area.

2. Plans indicate that there is an 8x10 shed on the property which is over the lot line. By code this shed requires a 3ft set back from the side and rear lot lines.

3. Plans indicate that the patio surrounding the pool has a 7ft set back to the rear lot line. By code this patio must have a 10ft set back to the rear line; and

WHEREAS, the Applicants filed with the Board, an Application for Variance Approval pursuant to N.J.S.A. 40:55D-70(c)(the "Application"); and

WHEREAS, a public hearing was held by the Board on August 14, 2025, at which time the Applicants were represented by Matthew G. Capizzi, Esq. of Capizzi Law Offices. The hearing was held in-person, in accordance with the Municipal Land Use Law and the Open Public Meetings Act; and

WHEREAS, during the public hearing, the Applicants, through counsel, (a)99 presented proof of notice and publication as required by law and (b) submitted the following Exhibits in support of their Application:

1. A complete application, including certification of payment of current real estate taxes;

2. The Architectural Plan prepared by Plan Architecture and dated October 16, 2024;

3. The Survey prepared by Lakeland Surveying and dated January 5, 2024;

4. A highlighted copy of the Tax Map of the Borough of Hillsdale;

5. A photograph exhibit showing the existing conditions on the Property; and

6. Testimony by Chris Lopez of Plan Architecture, who was accepted as an expert in the field of architecture and who testified regarding the Architectural Plan and proposed improvements; and

WHEREAS, the Board also reviewed the report prepared by its Engineer, Christopher P. Statile, P.E. of C.P. Statile, P.A., dated May 8, 2025, and the comments provided by Mr. Statile during the hearing; and

WHEREAS, having heard and considered the testimony presented by the Applicants, as well as comments received from members of the public, the Board has made the findings set forth below.

NOW, THEREFORE, BE IT RESOLVED that the Joint Planning Board of the Borough of Hillsdale makes the following findings of fact:

1. The Property is located at 41 Craig Road and designated as Lot 6 in Block 103 on the Tax Map of the Borough of Hillsdale.

2. The Property is located on the R-1 Residential Zone District and is currently developed with a single-family residence and associated improvements, including an in-ground pool, patio, deck, various walkways, and a shed. The Property is undersized at 15,854 square feet, where a minimum of 22,500 square feet is required in the R-1 Zone.

3. The Applicants propose to construct a single-story addition to the rear of the existing residence and a new covered front porch and further propose to modify the front walkway and the deck within the rear yard.

4. The Application requires variance relief pursuant to N.J.S.A. 40:55D-70(c) with respect to the following:

a. Maximum impervious coverage, where 30% is permitted; 38.7% is existing; and 38% is proposed;

b. Minimum rear yard setback, where 50 feet is required; and 47.75 feet is proposed to the new chimney; and

c. Minimum front yard setback, where 60 feet is required; and 50.17 feet is proposed to the new front porch overhang.

5. The Board notes the following existing nonconformities on the Property, which are not impacted by the proposed improvements:

a. Minimum lot area, where 22,500 square feet is required; and 15,854 square feet is existing and proposed to remain;

b. Minimum lot frontage, where 150 feet is required; and 105 feet is existing and proposed to remain;

c. Minimum side yard setback (single), where 25 feet is required; and 15.1 feet/16.1 feet is existing and proposed to remain;

d. Minimum side yard setback (aggregate), where 42 feet is required; and 31.2 feet is existing and proposed to remain;

e. Minimum side yard setbacks of patios, porches, and decks, where 10 feet is required and less than 10 feet is existing and proposed to remain;

f. Minimum rear yard setback to patio, where 10 feet is required; and 7 feet is existing and proposed to remain; and

g. Minimum setback to accessory structure, where 3 feet is required and an existing shed is located on the southerly property line[1].

6. After being duly qualified and accepted by the Board as an expert in the field of architecture, Chris Lopez of Plan Architecture testified that the Property is undersized and includes existing nonconformities with respect to all setbacks and impervious coverage, none of which were created by the Applicants. He described the proposed building improvements as small additions to the existing residences, one of which is a new covered front porch to replace an existing portico, and the other is to provide more efficient living space at the rear of the structure. He confirmed that no new bedrooms are proposed.

7. Mr. Lopez testified that the side yard setbacks are not impacted by the proposed improvements; however, the front yard setback is reduced slightly from 51 to 50.17 feet as measured to the new porch and the rear yard setback is reduced slightly from 49.75 feet to 47.75 feet as measured to the new chimney. Mr. Lopez

[1] Per the testimony of the Applicants' Architect as set forth herein, the shed was installed by, and is the Property of, the owner of the adjacent property rather than the Applicants.

further testified that the Property's impervious coverage is proposed to be reduced from 38.6% to 38% through the removal of a portion of existing deck, thereby decreasing the extent of the existing nonconformity. Finally, Mr. Lopez confirmed that the existing shed located on the southerly property line does not belong to the Applicants, but rather, was installed by the adjacent property owner, and the shed was therefore excluded from the Applicants' impervious coverage calculations. The Board Engineer concurred with Mr. Lopez that the shed should not be included in the Property's impervious coverage since it was not installed by the Applicants.

CONCLUSIONS AND DETERMINATIONS

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

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

10. The Applicants have proven to the satisfaction of the Board their entitlement to variance relief under N.J.S.A. 40:55D-70(c)(1) and 70(c)(2) for minimum front yard setback, minimum rear yard setback, and maximum impervious coverage.

11. The Board finds that the undersized nature of the Property and the existing nonconformities with respect to the residence and associated improvements, which were created by previous owners of the Property, present exceptional and undue hardship to the Applicants in complying with the requirements of the R-1 Zone.

12. The Board further finds that multiple purposes of the Municipal Land Use Law are furthered by the within Application as follows:

a. Providing adequate light, air, and open space;

b. Promoting the establishment of appropriate population densities;

c. Promoting appropriate locations for residential use; and

d. Promoting a desirable visual environment through creative development techniques.

13. The Board further finds that the variances can be granted without substantial detriment to the public good or any neighboring properties and without substantial impairment to the intent and purpose of the Hillsdale Zone Plan and Zoning Ordinance.

14. Finally, the Board finds that the benefits of approving the Application substantially outweigh any discernable detriment. The Applicants seek to improve their Property without intensifying the existing single-family residential use; the variances for minimum front and rear yard setbacks are minor in nature; and the reduction in impervious coverage decreases the extent of an existing nonconformity.

NOW, THEREFORE, BE IT RESOLVED by the Joint Planning Board of the Borough of Hillsdale, based upon the above findings of fact and conclusions of law, that the within Application for variance relief is hereby granted, subject to the following conditions:

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

(b) The Applicants shall comply with the recommendations of the Board Engineer, as set forth in the report dated May 8, 2025, including, but not limited to the following:

(i) All leaders should direct runoff away from the side yards. Should stormwater runoff become an issue in the future, the Applicants must mitigate same.

(ii) An As-Built Survey shall be required upon completion of the proposed improvements as a condition for the issuance of the Certificate of Occupancy.

(c) 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, unless otherwise addressed herein or during the public hearing.

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

(e) The Applicants shall comply with all of the stipulations made during the hearing on this Application including all of the stipulations enumerated above.

(f) 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.

(g) 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.

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

(i) 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 Applicants or their 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 Applicants agree 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.

(j) 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 improvement, subject to reasonable notice and the opportunity to cure.

(k) The above approval in no way sanctions or permits any other zoning non-conformities not specifically identified on the submitted Application, but which may exist on the subject Property.

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 11, 2025.

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

ATTEST: SO APPROVED:

_____ _____
Stephen Riordan, Vice Chairman Meredith Kates, Chairwoman

BOROUGH OF HILLSDALE PLANNING BOARD

VOTING

BOARD MEMBER	YES	NO	ABSENT
Meredith Kates, Chairwoman	X		
Stephen Riordan, Vice Chairman	X		
Scott Raymond, Board Secretary			X RECUSED
Michael Sheinfield	X		
Janetta Trochimiuk	X		
Ed Alter	X		
Daniel Friedman	X		
Seth Griep	X		
Arthur Weinberg	X		

ALTERNATE BOARD MEMBERS	YES	NO	ABSENT
Starke Hipp – Alter. I	X		

Voted on September 11, 2025.