

**ZONING BOARD OF ADJUSTMENT OF THE  
BOROUGH OF HILLSDALE**

**RESOLUTION 2024-16**

**VARIANCE APPROVAL**

In the Matter of the Application of John & Jennifer Sabatie.

**WHEREAS**, John & Jennifer Sabatie (the "Applicant") is the owner of the property located at 7 Cherry Hill Court and designated as Lot 20 in Block 2201 on the Tax Map of the Borough of Hillsdale located in an R-2 zone (the "Property"); and

**WHEREAS**, the Applicant filed an Application, number PZ-07-24, with the Planning Board, Borough of Hillsdale (the "Board") arising from the denial of a Permit for a proposed two-story addition.

**WHEREAS**, the Applicant's request for a Permit was denied by the Borough of Hillsdale Zoning Official, Steven Loesner, on April 4, 2024 stating:

Your application to construct a two-story addition is *denied*. Submitted plans indicate a combined side yard setback of 27.0 ft where 35.8 ft is required; and

**WHEREAS**, On April 29, 2024, the Applicant filed, with the Planning 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 June 13, 2024, in-person, in accordance with Municipal Land Use Law and

the Open Public Meetings Act, at which time the Applicant, represented by Matthew Capizzi, 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 Applicant of the property, the location of the proposed addition, and the neighboring properties.

B. A survey dated March 8, 2024 from Jeffrey S. Grunn, PLS of Lakeland Surveying.

C. A complete application.

D. Architectural plans with coinciding testimony of Frank Troia, AIA; and

**WHEREAS**, the Board carried the June 13<sup>th</sup> meeting to allow for adjustments to made and continued the hearing at a Public meeting held by the Board on July 23, 2024, in-person, in accordance with Municipal Land Use Law and the Open Public Meetings Act, at which time the Applicant, represented by Donna Vellekamp, Esq., appearing for Matt Capizzi, Esq., submitted the following Exhibits in support of Applicant's bulk variance application:

A. Updated architectural plans, last revised \_\_\_\_\_, addressing the Board's June 13, 2024 comments, and

additional corresponding testimony of Frank Troia, AIA;  
and

B. Engineering plans prepared by Tyler Vandervalk, PE dated March 15, 2024 and revised June 28, 2024, with testimony regarding the plans, the site, existing conditions and proposed conditions; 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 notes Jesse Fixelle and Nicole Tintle of 5 Cherry Hill Court provided a certification in support of the application.

**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 at 7 Cherry Hill Court, the end of a cul de sac, and designated as Lot 20 in Block 2201 on the Tax Map of the Borough of Hillsdale.
2. The Property is a slightly irregularly shaped lot due to the cul de sac and comprised of approximately 19,200 square feet. This irregular pie shape of the lot is the cause of the relief sought.
3. The lot is oversized inasmuch as a minimum of 15,000 square feet is required.

4. The Applicant proposed moving the driveway so it is not on the property line, which the Board determines is an aesthetic and functional improvement.
5. During the pendency of the Application the Applicant amended the Application to increase the functionality of the addition as suggested by the Board.
6. The Applicants seek a side yard setback variance and a combined side yard setback variance due to the addition, and a rear yard setback due to the existing overhang.
7. As set forth above, the Application requires variance relief pursuant to N.J.S.A. 40:55D-70(c) due to the hardship of the irregularly shaped lot.

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

11. The Board finds as a fact that the variance can be granted without detriment to the public good or any neighboring properties and will not negatively impact any of the neighbors.

12. The Board further finds as a fact that this approval will not substantially impair the intent and purpose of the Hillsdale Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2.

13. The Property is oversized in the zone as noted above which creates a condition limiting the impact of the variance relief. There are no issues with impervious and building coverage limits, or FAR calculations.

14. The Applicant's relocation of the driveway, pulling further away from the property line, provides for better planning.

15. The Applicants have proven their entitlement to approval under N.J.S.A. 40:55D-70(c) due to the "pie slice" shape of the property. 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.

16. There are no discernable negative impacts from the amended proposed addition.

**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:

- Board Engineer Christopher P. Statile, P.A. will inspect the completed addition to ensure the conditions are met.
- The trees will be preserved if possible; if not, the trees removed will be replaced in accordance with Borough ordinance.
- The rear yard temporary sheds will be removed.
- The new windows will generally match the proposals in the architectural renderings.
- The retaining wall will not exceed 3.5 ft at the garage and will taper down from there.
- Necessary permits will be taken out with Borough.
- Landscaping to be installed along the driveway, generally matching the proposed renderings.

(a) Notwithstanding the approval granted herein, the Applicant 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 Applicant 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 Applicant shall obtain the approval (or waiver thereof) of all other governmental agencies having jurisdiction over the proposed development.

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

(e) The Applicant 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 Applicant 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 Applicant 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 Applicant 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 Applicant's 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 August 8, 2024.

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



ATTEST:

SO APPROVED:

\_\_\_\_\_  
Scott Raymond, Secretary

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Meredith Kates, Chairwoman

**BOROUGH OF HILLSDALE PLANNING BOARD**

**VOTING**

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

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

Voted on August 8, 2024