

**BOROUGH OF HILLSDALE
PLANNING BOARD
RESOLUTION NUMBER 2022-16
CASE NUMBER PZ-06-22**

WHEREAS, an application has been submitted by Bindu Nair and Steven Russo (the “Applicant”) for property known as 79 Melville Road, Hillsdale, New Jersey and identified as Block 105, Lot 4 (the “Property”); and

WHEREAS, the Applicant applied for variances for rear yard setback, side yard setback, side yard setbacks-total, and impervious coverage in order to construct a first-level addition and rear deck; and

WHEREAS, the Applicant was represented by Dennis Francis, Esq., 37 Liberty Street, Suite 1, Little Ferry, NJ 07643; and

WHEREAS, the Board considered the report of Christopher P. Statile, PE, dated May 27, 2022; and

WHEREAS, a public hearing was held on July 26, 2022; and

WHEREAS, the application was presented at the Board’s July 26, 2022 hearing. Wayne Guskind, RA, was duly qualified and sworn, and Mr. Guskind and the Applicant, Bindu Nair, testified at the July 26, 2022 hearing; and

WHEREAS, Christopher P. Statile, PE (Board Engineer) was duly sworn and testified at the July 26, 2022 hearing; and

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

1. Architectural plan entitled “Addition/Alterations to the Nair/Russo Residence, 79 Melville Road, Hillsdale, New Jersey 07642”, prepared by William G. Severino, RA, 104 Summit Circle, Little Ferry, NJ 07643, dated February 17, 2022 and revised to May 17,

2022, consisting of the following:

- T-1: Title Sheet; Site Diagram;
 - A-101: Floor Plan;
 - A-201: Elevations; and
 - A-202: Elevations.
2. Property Survey prepared by David J. Von Steenburg, PLS, of Morgan Engineering & Surveying, P.O. Box 5232, Toms River, NJ 08754, dated December 9, 2021; 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 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 79 Melville Road, designated as Block 105, Lot 4.
2. The property is situated in the R-1 Zone District.

3. Lot 4 consists of 15,000 SF (0.34 acre) and is located on the south side of Melville Road, east of the Craig Road intersection,, in the R-1 Zone District (minimum lot size 22,500 SF).

4. The lot is improved with a one-story frame ranch-style dwelling with a back concrete patio. An asphalt driveway provides access to Melville Road. Various fencing and walkways are located on the property.

5. Lot 4 is substandard for lot area, lot width and lot frontage, creating the noted variances. The existing improvements exceed the maximum permitted impervious coverage and the dwelling encroaches into the required front, side and rear yard setbacks.

B. The Application

6. The Applicant proposes to construct a first-floor addition (217 SF) that contains a new bedroom and bathroom, as well as a kitchen expansion and a new dining room. A new 366 SF rear deck is also proposed.

7. As approved, the dwelling will contain three bedrooms, two bathrooms, an entranceway, living room, kitchen with breakfast nook, family room and a dining room. The proposed deck will encroach into the rear and side yard setbacks, and the impervious coverage is further exacerbated by the proposed improvements.

8. According to the report of the Board Engineer, Christopher P. Statile, dated May 27, 2022, the Applicant requires the following variances:

Proposed Variances

- (a) Rear Yard Setback: 41.88 feet proposed vs. 50 feet required, a difference of 8.12 feet.
- (b) Side Yard Setback (west side): 10.2 feet proposed vs. 25 feet required, a

difference of 14.8 feet.

- (c) Side yard Setbacks, Total: 38.5 feet proposed vs. 40 feet required (40% of lot width), a difference of 1.5 feet.
- (d) Impervious Coverage: 37.15% proposed vs. 30% permitted, a difference of 7.15% or 1,073 SF (wood decks constitute 50% of impervious coverage).

Existing Variances

- (a) Impervious Coverage: 37.5% vs. 30% permitted, a difference of 7.4%.
- (b) Lot Area: 15,000 SF existing vs. 22,500 SF required, a difference of 7,500 SF.
- (c) Lot Width and Frontage: 100 feet existing vs. 150 feet required, a difference of 50 feet.
- (d) Front Yard Setback: 53.31 feet existing vs. 60 feet required, a difference of 6.69 feet.
- (e) Side Yard Setback, Single: 10.2 feet proposed v. 25 feet required, a difference of 14.8 feet.
- (f) Side Yard Setback, Total: 38.5 feet proposed vs. 50 feet required, a difference of 11.5 feet.
- (g) Impervious Coverage: 37.4% existing vs. 30% maximum permitted, a difference of 7.4% or 1,107 SF.

C. The Hearing

9. Dennis Francis, Esq., counsel for the Applicant, provided an overview of the application to the Board. The property is located at 79 Melville Road, Block 105, Lot 4, in the

R-1 Zone. The Applicant seeks to construct a first-level addition of 217 SF to expand an existing third bedroom, along with renovations to the existing kitchen, bathroom and dining room. The Applicant also seeks to construct a 366 SF rear deck. There are four variances requested by the Applicant: (i) rear yard setback (50 feet is required and 41.88 feet is proposed); (ii) side yard setback (west/right side) (25 feet is required and 10.2 feet is existing and proposed); (iii) side yard setback-total (40 feet is required and 38.5 feet is existing and proposed); and (iv) impervious coverage (30% is permitted and 37.15% is proposed). Mr. Francis presented Wayne Guskind, RA, who testified in place of William Severino, RA, the preparer of the plans. The property owners were present at the hearing.

10. The first witness to testify was Wayne Guskind, RA. Mr. Guskind was qualified as a licensed professional architect of the State of New Jersey and duly sworn prior to providing testimony with regard to the subject application. Mr. Guskind walked the Board through the plans prepared by Mr. Severino. Mr. Guskind testified that he met with Mr. Severino and the property owners, as well as visited the property. The first sheet of the plans contains a site diagram and zoning information. Sheet A-101 shows the entire first floor and depicts the location of the proposed addition and new deck. The proposed addition will be 12' 8" x 17' and will expand the existing master bedroom. The proposed addition lines up with the existing dwelling. There is a 10 foot setback, which is a pre-existing, non-conforming condition. The third sheet of the plans (A-103) depicts the front elevation. The application has no impact on the front elevation, according to Mr. Guskind. The proposed addition will be consistent with the rest of the house and the roof and siding will blend seamlessly with same. The last sheet of the plans is the rear elevation and depicts the addition and deck.

11. Mr. Guskind testified that this is an existing undersized lot. The R-1 Zone requires 22,500 SF and the subject lot is 15,000 SF. If the lot was conforming in size, the variances would not be required, specifically with regard to the side yard issues. As to the variance for side yard setback/total, 40 feet is required, and the Applicant is providing 10 feet on one side and 28± feet on the other side, for a total of 38.5 feet. This is a pre-existing condition. The required side yard setback is 25 feet and the Applicant is providing 10 feet. This is a pre-existing condition and will not be exacerbated by the application. The required rear yard setback is 50 feet. The current rear yard setback is 54.56 feet and same will be reduced to 40.56 feet. The reduced rear yard setback will only apply to 17 feet of the 100 feet width. The existing impervious coverage is 37.4% (5,607 SF) and is being reduced to 37.15% (5,573 SF), where 30% is permitted. This is a reduction in the existing impervious coverage. The proposed addition and deck will not be visible from the front of the house or the road. Mr. Guskind testified that with the proposed addition and deck, the dwelling will be in conformance with other homes in the neighborhood. This is a one-level ranch-style home and the Applicant does not seek to add a second story. The only variance being necessitated by the proposal is for rear yard setback, as the other variance requested are for pre-existing conditions.

12. Vice-Chairman Riordan noted that the lot is 150 feet in depth, which is conforming. Mr. Guskind noted that the front yard setback requirement is 60 feet and the rear yard setback requirement is 50 feet, which leaves 40 feet for the dwelling. It can be difficult for a one-story home to stay within the 40 foot parameter. It is not unusual for a one-story house to be deeper than 40 feet. In response to a question from Mr. Riordan, Mr. Guskind advised that the rear roof overhang will be 18" – 24". Mr. Riordan asked if the Borough considers the setback to be measured to the foundation or to the farthest overhang of the building. Mr. Statile

advised that the Ordinance provides the setback be measured to the furthest portion of the building, so the rear yard setback proposed of 40.56 feet is actually 38.56± feet. The application was amended on the record to reflect this change.

13. In response to a question from Board member Seth Griep, Mr. Guskind stated that the house is built on a slab. He noted that the survey depicts an existing concrete patio. Mr. Guskind testified that the concrete patio will be demolished and replaced with the proposed deck. No trees or shrubs will be removed as part of the application.

14. Chairman Burleson noted that variance relief is required for the rear yard and asked if there were any trees or shrubs being proposed as a barrier to the home behind the subject property. Mr. Guskind stated there are not and the adjacent home is visible from the site.

15. In response to a question from Ms. Miano, Mr. Guskind confirmed that the entire concrete patio totaling 431 SF is being demolished. The proposed deck is larger than the existing concrete patio, but will reduce the impervious coverage as decks are counted as 50% impervious coverage. Ms. Miano also noted that while the lot is deficient in size as a whole, the lot depth is not deficient and asked if the application could be modified. Mr. Guskind feels the proposal is the right size for the site and again noted that this is a one-story dwelling. He does not feel that the proposed addition and deck are overly large. Anything over 4 to 5 feet would encroach on the setback. Ms. Miano noted that only a portion of the concrete patio is being removed to accommodate the new deck, and 381 SF of concrete patio will remain. She asked if it was possible to remove the entirety of the concrete patio to lower the impervious coverage. Mr. Guskind testified the Applicant would like to retain that “stepping stone” from the deck to the patio to the yard.

16. Chairman Burluson asked if the variance for rear yard setback could be avoided if the Applicant built up and made a second story instead of to the rear. Mr. Guskind responded that it could but it would involve much more work and expense. In addition, the Applicant purchased this home specifically because it is a ranch style. They are getting older and have no desire to climb stairs to a second floor.

17. Ed Alter reiterated Ms. Miano's concerns as to a portion of the existing concrete patio remaining. Mr. Guskind responded by reminding the Board that the Applicant is reducing the overall impervious coverage by a small amount.

18. Mr. Raymond confirmed with Mr. Guskind that the existing dwelling is 2,415 SF and the Applicant proposes an addition of 217 SF and the impervious coverage has been reduced. He noted that the side yard setback deficiencies are existing and are not being exacerbated. The only variance being requested by the Applicant is for rear yard setback.

19. The meeting was opened to the public and no one appeared to ask any questions of Mr. Guskind.

20. Bindu Nair, the Applicant, appeared before the Board and was duly sworn. Ms. Nair responded to questions the project architect was unable to respond to, which were questions from the Board. With respect to the year the home was built, Ms. Nair believes it was built in 1963 or 1964. She confirmed that the property was purchased in late 2021. Other than the portion of the concrete patio, she stated that one small tree/bush will be removed in the rear yard and nothing else. In response to a prior Board question as to whether there is currently anything (i.e. bushes, trees, etc.) to shield their property from the property to the rear, Ms. Nair responded there is nothing. It is completely open with a chain link fence and additional landscaping is not proposed. She advised the Board that there is a basement to the home and it is not on a slab as

testified to by Mr. Guskind. In the time they have lived in the dwelling, there have been no flooding issues, and the prior owner advised that they have never had any such problems. As to the removal of the entire concrete patio, Ms. Nair stated that when discussing the renovation with Mr. Severino, he advised this is the best use of the space, as depicted in the plans. As to adding a second floor instead of the proposed addition, Ms. Nair advised the Board that she has medical issues making it difficult to climb the stairs and is the reason they sold their old home and purchased this ranch-style dwelling.

21. Chairman Burleson asked Ms. Nair if they would be willing to plant any trees along the back fence for screening purposes, and she jokingly told the Board she usually winds up killing plants. Mr. Burleson asked if they were adding a bedroom with the proposed addition, and Ms. Nair advised that the house currently contains three bedrooms. The master bedroom is tight and is being expanded. It will remain a three-bedroom home.

22. Vice Chair Riordan asked if the Applicants propose to expand the HVAC capacity or if they have a generator. Ms. Nair advised they have a generator. Mr. Riordan noted that the pad the generator sits on is probably about 10 SF, which is not reflected in the impervious coverage. Mr. Burleson noted that the permitted impervious coverage is 30% and the Applicant is proposing 37%. He suggested either removing the remainder of the concrete patio and replacing it with pavers; removing it completely to be a grassed area; or removing a portion of the patio to reduce the impervious coverage. The Applicant agreed to remove the 381 SF of concrete patio which was originally going to remain and to replace it with pervious pavers, which the Board made a condition of approval. The pervious pavers represent a 50% reduction. The paver area may not exceed 381 SF. New calculations will be provided to the Board professionals and revised plans submitted depicting the removal of the concrete patio and

addition of the pavers, as well as the inclusion of the pads the generator and HVAC unit sits on. The Zoning Table is to be revised and submitted to the Board and its professionals. Chairman Burleson commented that he would like to see trees added for screening along the rear of the property but will not make it a condition of approval.

23. The meeting was opened to the public and no one appeared either in favor of or opposed to the application.

24. Scott Raymond made a motion to approve the application with the conditions placed on the record by the Board, which motion was seconded by Daniel Friedman. The application was approved by a vote of 8 to 0. Ms. Miano wanted it noted on the record that she voted yes with reticence.

D. Justification for Relief

25. The Board further finds the Applicant has met his burden of proof in support of their variance request.

26. 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.
- 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 Applicant has met the burden of proof to the satisfaction of the Planning Board for variance relief, as proposed by the Applicant.
- F. The Board finds the use is permitted in the R-1 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 has been approved, to wit:
 - (a) Rear Yard Setback: 38.56 feet proposed vs. 50 feet required, a difference of 11.44 feet.
 - (b) Side Yard Setback (west side): 10.2 feet existing and proposed vs. 25 feet required, a difference of 14.8 feet.
 - (c) Side yard Setbacks, Total: 38.5 feet proposed vs. 40 feet required (40% of lot width), a difference of 1.5 feet.
 - (d) **Impervious Coverage: 37.15% proposed vs. 30% permitted, a difference of 7.15% or 1,073 SF (wood decks constitute 50% of impervious coverage). Revised calculations are to be provided by the Applicant.**

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 Applicant 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 in this resolution and on the record shall be complied with by the Applicant.

4. 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, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicant 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 Applicant 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 Applicant shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

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

12. The Applicant 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 Applicant shall remove the 381 SF of concrete patio which was originally going to remain and to replace it with pervious pavers not to exceed 381 SF, which the Board made a condition of approval. Revised plans depicting such change, including updated calculations for impervious coverage, are to be provided to the Board prior to the adoption of the memorializing resolution.

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 variances for impervious coverage and setback to property lines, as set forth herein and in the plans, and the Applicant is 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.

MOVED BY: Scott Raymond
SECONDED BY: Daniel Friedman

VOTE: FOR 8 AGAINST 0 ABSTAIN _____

MEMORIALIZATION VOTE:

MOVED BY:
SECONDED BY:

VOTE: FOR _____ AGAINST _____ ABSTAIN _____

APPROVED

Attest:

Meredith Kates, Secretary

Dewey Burleson, Chair

I certify that the foregoing is a true copy of the Resolution adopted on _____,
2022.

Meredith Kates, Secretary

Dated: _____, 2022