

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF
HADDONFIELD GRANTING VARIANCE APPROVAL TO
MITCHELL AND KIMBERLY LEFF
ZBA #2018-22**

A public hearing on this matter was conducted by the Board on December 18, 2018

APPLICATION NUMBER: ZBA#2018-22

PROPERTY ADDRESS: 50 South Hinchman Avenue
Block 89, Lot 4 on the Tax Map

NAME OF APPLICANT: Mitchell and Kimberly Leff

OWNER OF PROPERTY: Mitchell and Kimberly Leff

DATE OF HEARING: December 31, 2018

**BOARD MEMBERS PRESENT
AND VOTING:**

Linda Kuritzkes, Chairperson
Kevin Burns, Vice Chairperson
Susan Baltake
Wayne Partenheimer
Bryan Pukenas
Marc Rubino (Alternate I)
Colleen Bianco-Bezich (Alternate III)

ALSO PRESENT: Steve Sweet (Alternate IV)

APPEARANCES: Frank H. Wisniewski, Esquire, Applicant's Attorney
Mitchell Leff, Applicant
Steve Zimmer, Applicant's Landscaper
Greg Sullivan, Borough Engineer
Tavis Karrow, Zoning Officer & Board Secretary
Francis X. Ryan, Esquire, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT: R-3

LOT DIMENSIONS: 80' x 200'

LOT AREA: 16,000 square feet

STREET FRONTAGE: 80'

STRUCTURES LOCATED
ON LOT: Single family residence

DEVELOPMENT PROPOSAL

1. Construction of new walkway, patio and driveway expansion.

RELIEF/VARIANCE REQUESTED

1. A variance from Section 135-28(D)(4)(b) which limits total impervious coverage to 28% and 32.14% is proposed.

SUBMISSIONS

Application and supporting documents.
A-1 DEP stormwater management definitions
A-2 Survey
A-3 Prepared plan
A-4 Driveway plan
A-5 Crosscut of pavers for driveway

SUMMARY OF TESTIMONY AND EVIDENCE

The Applicant's attorney provided an overview of the project. The proposal is to add a walkway and expanded patio in the rear and to expand the existing driveway. Some of the addition will be built over the area of an existing patio. It was also represented that when the house was built in 2017 a stormwater management system was installed which results in the property functioning at the equivalent of 8.9% in impervious coverage.

The Applicant testified and explained the reason for the proposed development. With regard to the driveway expansion, he indicated that he currently experiences problems when trying to pull his car around his wife's car in the driveway. He often runs off the side of the driveway causing rutting which can fill with rainwater and becomes muddy. By expanding the driveway for a short distance, there will be enough room for the two cars to pass and remain on pavement. With regard to the patio, it is basically a matter of being more convenient and more conducive to the full use of the rear yard.

The Applicant's landscaper then testified. He was involved in the original landscaping of the property during its construction. He also performed some of the work to install the current stormwater management system. It was his understanding that the stormwater management system was engineered to essentially capture all the runoff from the home and garage and that the system had a functional equivalent of 8.9%. Unfortunately, he did not have copies of the engineer's reports relative to the existing stormwater management system.

The Board and its engineer raised various questions concerning the efficacy of the existing stormwater management system since no documents or materials relating to same had been presented for the Board or engineer to review. The Board also discussed the fact that in similar situations the Board had granted variances for expanded impervious coverage so long as the stormwater management system was designed to create a system that functioned to the equivalent of less than the maximum allowed impervious coverage.

No member of the public appeared or testified.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located in the R-3 Residential Zone.
2. The variance requested does not include any request for setback relief or any other relief other than the increase in impervious coverage.
3. To obtain a (c)(1) variance the Applicant must show the existence of peculiar and practical difficulties to, or exceptional undue hardship upon the Applicant arising out of (a) the exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon. In this case, the lot in question is undersized for the zone. If one were to do the math, if the lot were full sized the proposed impervious coverage would comply. However, what is more significant is the fact that the amount of impervious coverage can be accommodated through a stormwater management system.
4. It is believed that the current stormwater management system causes the property to operate at the functional equivalent of 8.9% in impervious coverage. That representation needs to be supported by engineering reports and the design criteria. Assuming that the representations are correct, which will be subject to a review and approval by the Board Engineer, then and in that event the relief requested can be granted without violating the spirit and intent of the Zoning Ordinance, the Zone Plan, or the Master Plan.

5. Due notice has been given in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and the rules of the Board of Adjustment.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Borough of Haddonfield, that subject to the conditions noted below, that the application for a variance be and is hereby granted, pursuant to N.J.S.A. 40:55D-70(c).

CONDITIONS OF APPROVAL

1. The development approved by this resolution must comply with the plans and specifications submitted with this application.
2. Applicant must comply with all other applicable ordinances and codes including but not limited to Shade Tree Ordinance, building codes, fire codes and all water management requirements.
3. The Applicant will provide proof of the installation of a stormwater management system that produces the functional equivalent of a maximum of 28% impervious coverage. The system, its design, installation and current status shall be subject to review and approval by the Borough Engineer and/or construction official as appropriate.
4. If the Applicant has not already done so, the Applicant will enter into a system maintenance agreement in a form as specified by the Borough Ordinance.
5. If the Applicant has not already done so, Applicant agrees to record a Deed notice to their chain of title to provide notice to subsequent owners of the property of the maintenance obligations set forth in the maintenance agreement.

Motion by: Burns; seconded by Baltake

Board members voting to grant the requested variance: Kuritzkes, Burns, Baltake, Partenheimer, Rubino and Bianco-Bezich

Board members voting to deny the requested variances: None

CERTIFICATION

I hereby certify that the foregoing is a true, accurate, and complete copy of the

resolution of memorialization adopted by the Zoning Board at its regular monthly meeting on January 15, 2019, memorializing action taken by the Zoning Board on December 18, 2018.

Tavis A. Karrow, Board Secretary