

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE
BOROUGH OF HADDONFIELD GRANTING VARIANCE APPROVAL
TO MATTHEW AND TINA CARUSO
ZBA #2019-14**

Public hearings on this matter were conducted by the Board on August 20 and October 15, 2019.

APPLICATION NUMBER: ZBA#2019-14

PROPERTY ADDRESS: 138 North Drive
Block 91.10, Lot 11.01 on the Tax Map

NAME OF APPLICANTS: Matthew and Tina Caruso

OWNER OF PROPERTY: Matthew and Tina Caruso

DATES OF HEARINGS: August 20 and September 17, 2019

BOARD MEMBERS PRESENT
AND VOTING: Linda Kuritzkes, Chairperson
Brian Mulholland
Wayne Partenheimer
Steve Sweet, Alternate II

APPEARANCES: Tina Caruso, Applicant (both hearings)
John Vaoenti, Applicant's Builder (both hearings)
Gregory Sullivan, Borough Engineer (both hearings)
Tavis Karrow, Zoning Officer and Secretary
Francis X. Ryan, Esquire

PROPERTY DESCRIPTION

ZONING DISTRICT: R-5A

LOT DIMENSIONS: 117.84' x 91.50'

LOT AREA: 10,782.36 square feet

STREET FRONTAGE: 91.50 feet

STRUCTURES LOCATED
ON LOT: Two-story single-family residence with attached garage

DEVELOPMENT PROPOSAL

1. Construction of a deck to the rear of the existing home.

RELIEF/VARIANCE REQUESTED

1. A variance from Section 135-30.1D(4)(A) which limits building coverage to 20% percent and 24% is proposed.
2. Relief from Section 135-30.1D(4)(B) which limits total impervious coverage to 32% and 36% percent is proposed.

SUBMISSIONS

Application and supporting documents.
Portion of site plan showing cut away view of existing cistern and related system components.
Report of SR3 Engineers dated September 23, 2019.

SUMMARY OF TESTIMONY AND EVIDENCE

The applicant, Tina Caruso, with the assistance of her father/builder John Vaoente presented the application. It was indicated that the Carusos built the house in question with her father acting as the general contractor. They indicated their belief that at the time the home was constructed it was fully compliant with bulk, area and coverage requirements but believe that the ordinance had been adopted in the interim. The Borough's records do not reflect any amendment during that time period. The Applicant acknowledged that there was no specific hardship created by the condition of the property nor its size or shape that would support the variance. She simply indicated that the family does not get the maximum use out of their backyard and open area without a deck or other area to utilize.

The Applicant brought to the board's attention the fact that at the time the current home was constructed a water retention system was installed. Specifically, a system was constructed whereby all of the downspouts for the house fed into a cistern which is buried in the front yard. A portion of what was presumably a site plan for the construction of the house showed the cistern and some of the system that was directing water into it. Unfortunately, there was no engineering testimony or evidence as to the effect of this water management system. There was discussion between the Applicant and various members of the board with

regard to other properties where water management systems have been installed which had the effect of the property functioning as if it had a lower percentage of impervious coverage. The board expressed concern that none of that information was presented and there was a fair amount of speculation concerning the functionality of this cistern and water management system.

Because of those concerns the Board gave the Applicant the opportunity to table the application in order to provide that engineering testimony to address the water management issue. The Applicant then requested that the matter be tabled.

In the interim the Applicant submitted an engineering report from SR3 Engineers dated September 23, 2019. That report reflected an engineering study on the storm water management system present on the property. The Board Engineer had the opportunity to review the engineering report and found it to be satisfactory and complied with Borough requirements.

No member of the public appeared or testified.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located in the R-5A Zone.

2. The existing dwelling is currently conforming with respect to all bulk, area and coverage. This is probably a function of the fact that the house was built ten (10) years ago while the current ordinance was in effect. The board expressed concern over the fact that the house was built to the maximum building coverage and impervious coverage by the current owner and now they are returning for a variance. The board has encountered this type of situation in the past and has expressed its concern that the decks of other impervious coverage or not being taken into consideration at the time of the initial construction.

3. To obtain a (c)(2) variance, the Applicant has a burden to show that an application relating to a specific property would advance the purposes of the zoning ordinance by a deviation from the ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment. In other words, the Applicant has to show that (1) the variance pertains to the specific property; (2) that a variance would advance the purposes of the MLUL and the ordinance; (3) the variance does not cause "substantial detriment to the public good"; (4) its benefits substantially outweigh any detriments from the deviation; and (5) the variance does "not substantially impair the intent and purpose of" the Zoning Plan and the Zoning Ordinance. In this case, by accepting the conditions imposed by the Board the Applicant has met its burden under Section (c)(2). The installation of a stormwater management system will result in reducing the effect of the impervious coverage and will result in a substantial improvement over the existing conditions.

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 enter into a system maintenance agreement in a form as specified by the Borough Ordinance.
4. 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: Brian Mulholland; seconded by Wayne Partenheimer

Board members voting to grant the requested variance: Kuritzkes, Mulholland, Partenheimer and Sweet

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 November 19, 2019, memorializing action taken by the Zoning Board on October 15, 2019.

Tavis Karrow, Board Secretary