

**A RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF
HADDONFIELD GRANTING VARIANCE APPROVAL TO
DAVID AND SHEILA SPELL
ZBA #2019-06**

A public hearing on this matter was conducted by the Board on April 16, 2019

APPLICATION NUMBER: ZBA#2019-06

PROPERTY ADDRESS: 426 Washington Avenue
Block 68, Lot 14 on the Tax Map

NAME OF APPLICANT: David and Sheila Spell

OWNER OF PROPERTY: David and Sheila Spell

DATE OF HEARING: April 16, 2019

BOARD MEMBERS PRESENT
AND VOTING: Linda Kuritzkes, Chairperson
Kevin Burns, Vice-Chair
Susan Baltake
Wayne Partenheimer
Brian Mulholland
Bryan Pukenas
Colleen Bianco-Bezich (Alternate I)

APPEARANCES: Sheila Spell, Applicant
Kevin C. Rasmussen, Applicants' Architect
Gregory J. Sullivan, Borough Engineer
Stephanie Heim, Zoning Officer & Board Secretary
Francis X. Ryan, Esquire, Board Solicitor

PROPERTY DESCRIPTION

ZONING DISTRICT: R-6

LOT DIMENSIONS: 70' x 165'

LOT AREA: 11,500 square feet

STREET FRONTAGE: 70'

STRUCTURES LOCATED
ON LOT: Two and one-half story residence with detached garage

DEVELOPMENT PROPOSAL

1. Demolition of existing walks, deck and patio and replacement with new deck and steps.

RELIEF/VARIANCE REQUESTED

1. A variance from Section 135-31(D)(4)(a) which permits a maximum building coverage of 22% and 23.1% is proposed (23.7% existing).

2. A variance from Section 135-31(D)(4)(b) which limits total impervious coverage to 35% and 42.7% is proposed (and 44% is existing).

SUBMISSIONS

Application and supporting documents.

A-1 Submission package including photographs, plans and elevations

SUMMARY OF TESTIMONY AND EVIDENCE

Sheila Spell, the Applicant, introduced the application. The property had been the subject of an earlier application which resulted in the granting of a variance, as memorialized in Resolution 2018-10. She indicated that they had decided to revise their plans. The architect then testified concerning the project. The original plan had been to "square off" the rear one-story addition to the existing home, remove some of the existing patio and walkway and to replace same with a raised patio with steps off the rear of the house. As the project developed, economic factors came into play and they scaled back the plan. The new plan eliminates the renovations to the house itself. The existing shed was removed, and they propose removing the existing patio and walk and replacing same with a smaller stone walk and wood deck. As a result of the changes, the building coverage will be reduced an additional 0.6% and impervious coverage by an additional 1.2%.

The Board discussed how this proposal differed from the prior version and noted that it still resulted in the property not complying with the coverage requirements. The Board repeated its earlier view that since the Applicant was going to be disturbing the property it was an opportunity to achieve a greater functional reduction in the impervious coverage of the property. Specifically, with the installation of a water management system the Applicant

could ameliorate some of the negative effects of the current excessive impervious coverage. Based upon a review of the 2018 Resolution and discussions with the Board Engineer, it was agreed that a stormwater management system which simply captured the runoff and downspouts from the roof over the rear of the house could have the effect of essentially reducing the impervious coverage by 5% which would bring the property closer to conformance.

No member of the public appeared in connection with the application.

FINDINGS OF FACT AND CONCLUSIONS

1. The subject property is located in the R-6 Residential Zone.

2. 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 Applicant has failed to establish entitlement to relief under section (c)(1) because there is no undue hardship relating to the features of the property or any extraordinary or exceptional situation affecting this particular structure and lot.

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). As noted in the Board's prior Resolution, while the initial design would have reduced impervious coverage, such would have been a *de minimis* improvement and would not have justified a variance. However, with the installation of a stormwater management system that will have the effect of reducing the effect of the impervious coverage the development will result in a substantial improvement over the existing conditions.

4. The granting of the variance does not represent any detriment to the zone plan or ordinance.

5. The relief requested can be granted without violating the spirit and intent of the

zoning ordinance, the zone plan and the Master Plan.

6. 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 install a stormwater management system that will produce the functional equivalent of no less than a 5% reduction of impervious coverage. The system, its design, and installation shall be subject to review and approval by the Borough Engineer and/or construction official as appropriate.
4. The Applicant will enter into a system maintenance agreement in a form as specified by the Borough Ordinance.
5. 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 Mulholland

Board members voting to grant the requested variance: Kuritzkes, Burns, Baltake, Mulholland, Partenheimer, Pukenas 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 May 21, 2019, memorializing action taken by the Zoning Board on April 16, 2019.

Tavis A. Karrow, Board Secretary