

MAY 25 2021

**KUGELMAN/PHAIR VARIANCE APPLICATION DESCRIPTION**

PLANNING DEPARTMENT

The applicants are the owners of property located at 36 East Twin Road in the Monmouth Hills section of Middletown Township which property is further known and designated as Block 773, Lot 1 on the tax map of the Township of Middletown. The property is presently developed with a two-story, three-bedroom, single-family residential dwelling with an attached one story, two-car garage, driveway and associated walkways.

The property is located in the R-45 Zone District which permits single-family residential homes with associated accessory structures. The property has the following existing nonconforming elements which will remain unchanged:

1. Lot area of 15,356 sq. ft. where 48,375 sq. ft. is required.
2. Lot frontage of 155 ft. where 200 ft. is required.
3. Buildable lot area of 15,356 sq. ft. where 30,000 sq. ft. is required.
4. Front yard setback of 10.1 ft. where 50 ft. is required.
5. Rear yard setback of 27.1 ft. where 50 ft. is required.
6. Lot coverage for all improvements of 26.7% where 25% is the maximum permitted.

The applicants propose to construct a 578 sq. ft. two-story addition to the rear of the home and add a second story over the existing garage that will create additional living space on the first floor and provide two additional bedrooms on the second floor. The applicant will also be removing 578 sq. ft. of the existing driveway and restoring it to pervious surface in order to maintain the existing lot coverage. The applicant has received approval of the proposed improvements from the Monmouth Hills, Inc. Board of Trustees and from the Middletown Township Landmarks Commission.

With one exception, none of the proposed will exacerbate existing nonconformities or create new variances. The exception is that the streets in the Monmouth Hills subdivision, of which this property is a part, are not improved to municipal standards.

Ordinance Section 540-504A of the Ordinance provides that "Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Township requirements . . . unless relief has been granted under the provisions of N.J.S.A. 40:55D-36. Consequently, the Zoning Officer has determined that a variance for the addition is required pursuant to Section 540-504A of the Township Ordinance and N.J.S.A. 40:55D-35 and 36 of the Municipal Land Use Law.

N.J.S.A. 40:55D-36 provides that where enforcement of this provision would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the board of adjustment may

upon application or appeal provide a variance and allow the issuance of a building permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety.

The applicant will provide testimony and exhibits at the time of hearing to demonstrate that this application satisfies the criteria for the grant of variance relief pursuant to the provisions of the Statute and pursuant to the criteria established by our courts in the case of Phillips v. Westfield Bd. Of Adjustment, 44 N.J. Super. 491 (App. Div. 1957) including:

1. The Monmouth Hills subdivision and streets therein are recognized streets shown on the municipal tax map at Sheet #74.
2. Monmouth Hills subdivision and streets therein are recognized streets shown on the municipal Master Plan as local streets.
3. East Twin Road is consistent with other streets in the Monmouth Hills subdivision.
4. There is no other practical access to the subject property except through the streets of the Monmouth Hills subdivision.
5. The subject property is a substantial distance from the Monmouth Hills access points to State Highway Route 36.
6. It would be an unnecessary hardship upon the applicant to require improving these streets to municipal standards.
7. The requirement of such improvements would, due to the cost, deprive the applicant of the reasonable use of their property.
8. The existing street system in the Monmouth Hills subdivision has adequately served the community for many years and has demonstrated that it is adequate to provide access for firefighting, ambulance and emergency vehicles.
9. This is an addition to an existing dwelling, not a new dwelling.
10. The grant of the variance will not result in any change to existing conditions of the existing street system or access to the property.
11. The grant of the variance will not have any adverse impacts upon public health and safety.
12. The applicant obtains no permanent immunity if the Township in the future decides to require improvements to the road by way of special or general assessments.