RESOLUTION OF APPROVAL

APPLICATION OF
JASON AND CRISTINA TOFF

	:	ZONING BOARD OF ADJUSTMENT
IN THE MATTER OF	:	CITY OF HOBOKEN
JASON AND CRISTINA TOFF	:	APPLICATION NO. HOZ-16-8
	:	BLOCK 201, LOT 4
	:	207 BLOOMFIELD STREET

WHEREAS, Jason and Cristina Toff, have requested variance approval pursuant to N.J.S.A. 40:55D-70 (c)(2) to construct an addition to the rear of the third-floor, thereby removing the existing terrace at that level on the property located at Block 201, Lot 4, on the tax map of the City of Hoboken, being commonly known as 207 Bloomfield Street, Hoboken, New Jersey and said premises being in the R-1 Zone; and

WHEREAS, the Board held a public hearing on said application on June 21, 2016; and

WHEREAS, the applicant has provided adequate notice of the application and the hearing in accordance with N.J.S.A. 40:55D-12; and

WHEREAS, the applicant was represented by Counsel, Robert Matule, Esquire; and

WHEREAS, the Board has heard the testimony and evidence presented by the applicant, and has received no comments from the public.

NOW, THEREFORE BE IT RESOLVED, that the Board of Adjustment of the City of Hoboken, County of Hudson and State of New Jersey, made the following findings of fact:

1. The Board found the application complete.

2. According to the application, the applicant requests the following variances:

   A. For preexisting and proposed lot coverage of 69.21%, whereas 60% is the maximum permitted.

   B. For proposed side yard setback of 1.16 feet, whereas 0 or 5 feet is required.

C. For the expansion of a nonconforming structure on a nonconforming lot.

3. Based upon the comments of applicant's Attorney, Robert Matule, Esquire, the Board heard the following:

   A. The applicant is proposing to construct a rear addition on the third floor of an existing single-family home to align with the two floors below.

   B. The applicant is requesting variance relief in relation to the proposed expansion of a nonconforming structure on a nonconforming lot.

   C. Mr. Matule opined that maintaining the existing site condition through the development of the proposed new addition will be a better alternative than if the building was cantilevered over to have a zero foot side yard setback, or pulled back to have a five foot side yard setback. The Board agreed.

4. Based upon the sworn and qualified testimony of the applicant's Professional Architect, Jensen Vasil, the Board made the following findings of fact:

   A. The subject lot is irregularly shaped.

   B. The property houses a three-story building with an uninhabitable cellar underneath, and the existing lot coverage on-site is 69.21%.

   C. The property has a preexisting one-foot two-inch side yard setback on the south side of the lot, which the applicant proposes to maintain as part of this development.

   D. The rear deck will be removed as part of the construction of the new addition, and it will be constructed directly over the existing structure, extending off the third floor in the rear of the building.

   E. The new addition will allow for a larger master bedroom with a nursery/study in the master suite.

   F. There will be new windows added to the addition and the façade will match the existing building.

G. The proposed new addition will not feature a roof deck or any rooftop mechanical equipment.

H. There is an existing roof top unit and a condenser that will remain where they are now.

I. The wall encroaching into the side yard of the property will be a concrete block, noncombustible two-hour rated fire wall.

5. Based upon the sworn and qualified testimony of the applicant's Professional Planner, Kenneth Ochab, the Board made the following findings of fact:

A. The proposed addition will have a *de minimis* impact on the surrounding community, given that height, lot coverage, rear yard setbacks and the building footprint will not be increased.

B. Variance relief requested for the side yard setback is to maintain the separation between the subject building and the neighboring building.

C. The configuration of the undersized lot make the property difficult to develop in compliance with the zoning ordinances.

6. The Board determined that the removal of the existing roof deck would be an improvement to the property because the roof deck directly overlooks the windows of the neighboring property to the south. The removal of this deck will allow for more privacy for the neighboring property owners, which is a public benefit.

7. The Board concluded that the addition will have a *de minimis* affect on the surrounding properties, given that the side yard setback will maintain the existing appropriate distance between the subject building and neighboring distance.

8. There are no substantial negative impacts arising from this proposal and will not impinge on the light, air, or privacy of the surrounding property owners.

9. The benefits of this proposal outweigh its detriments.

CONCLUSIONS OF LAW:

WHEREAS, the Board, after careful deliberation, found that this application has met the requirements of N.J.S.A. 40:55D-70 (c)(2) because the Board determined that the removal of the deck will create more privacy for the neighbors to the south of the property, and the side yard setback will maintain an appropriate distance between the neighboring property and applicant's property, both of which are public benefit as described in N.J.S.A. 40:55D-2 (a) "To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare;"

WHEREAS, the Board has determined that the relief sought can be granted without a substantial negative impact, provided all conditions of approval are satisfied or met; and

WHEREAS, the Board has determined that the relief sought does not impair the intent and purpose of the Master Plan or Zoning Ordinance of the City of Hoboken.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the City of Hoboken, in the County of Hudson and State of New Jersey, on the 21st day of June, 2016, upon a motion made by Antonio Grana and seconded by Edward McBride that the application of Jason and Cristina Toff, be granted, subject to the following terms and conditions:

1. The applicant shall be bound by all exhibits introduced, all representations made and all testimony given before the Board at its meeting of June 21, 2016.

2. The applicant shall provide all required Site Performance Bond and Inspection Fees in accordance with the Municipal Ordinance.

3. The applicant will have three (3) years from the date of this Resolution to obtain a building permit.

4. The applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including but not limited to the Municipality's and State's affordable housing regulations; and the applicant shall comply with any requirements or conditions of such approvals or permits.

5. The applicant must comply with the Development Fee Ordinance of the City of Hoboken, if applicable, which Ordinance is intended to generate revenue to facilitate the provision of affordable housing.

6. This approval is subject to the applicant's continuing obligation to ensure that the fees generated on this application by the Board's Planner, Engineer, and Attorney are fully paid prior to the issuance of a building permit and/or the issuance of the Certificate of Occupancy.

7. Publication of a notice of this decision will be published in one of the City's officially designated newspapers, at the cost of the applicant.

VOTE ON ROLL CALL:

IN FAVOR: Antonio Grana; Carol Marsh; Owen McAnuff; Dan Weaver; Edward McBride; John Branciforte

OPPOSED: None

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the applicant, Zoning Officer, and Tax Office of the City of Hoboken.

John Branciforte, Acting Chairman
Hoboken Zoning Board of Adjustment

CERTIFICATION

It is hereby certified the attached is a true copy of the Resolution approved June 21, 2016 and duly adopted as to form by the Zoning Board at its regular meeting on July 19, 2016.

Patricia Carcone, Secretary
Hoboken Zoning Board of Adjustment