

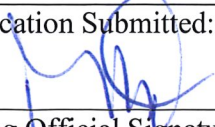
Borough of Haddon Heights

514 W. Atlantic Avenue
 Haddon Heights, NJ 08035
 (856) 546-2580

Case No. 24-2-1P

PLANNING BOARD APPLICATION

File: Keith and Beth Borchers Date Application Received: 1/11/2024
 Applicants Name

Application Submitted:
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  _____ Zoning Official Signature </div> <div style="text-align: center;"> <u>1/11/24</u> _____ Date </div> </div>

Disposition: _____ Date of Public Hearing: _____

{ } Approved _____ Time Required for Action: _____

{ } Approved with Conditions _____ Extension of Time Granted: _____

{ } Disapproved _____ Fee Collected: _____ Date Collected: _____

_____ Date Decision Published: _____

(DO NOT WRITE ABOVE THIS LINE)

I. Pursuant to the Borough of Haddon Heights Municipal Code & applicable New Jersey State Law, application is made to the Borough of Haddon Heights for the following:

<u>Check Application(s) Requested</u>	<u>Type of Application</u>	<u>Fee \$</u>	<u>Check Application(s) Requested</u>	<u>Type of Application</u>	<u>Fee \$</u>
<input type="checkbox"/>	Appeal of Admin. Decision	_____	<input type="checkbox"/>	Preliminary/Major Subdivision	_____
<input type="checkbox"/>	Interpretation	_____	<input type="checkbox"/>	Final Major Subdivision	_____
<input type="checkbox"/>	Bulk Variance	_____	<input type="checkbox"/>	Preliminary Site Plan	_____
<input type="checkbox"/>	Use Variance	_____	<input type="checkbox"/>	Final Site Plan	_____
<input type="checkbox"/>	Conditional Use	_____	<input type="checkbox"/>	Minor Site Plan	_____
<input checked="" type="checkbox"/>	Minor Subdivision	_____	<input type="checkbox"/>	Concept Plan	_____
				Total Fee	_____

Summary of Application
Borough of Haddon Heights Planning Board
Keith Borchers
Block 70, Lot 19
1009 Sycamore Street

The applicant, Keith Borchers, is the owner of real property located at 1009 Sycamore Street and designated as block 70, lot 19 on the municipal tax map. The property is currently improved with two single family dwellings pursuant to a use variance granted to a previous owner by the Zoning Board in 1983. The property is located in the R-2 Residential zoning district, where single family dwellings are a permitted use.

The applicant seeks minor subdivision approval from the Planning Board to subdivide the property into two lots, in order to place each of the existing homes on its own individual tax lot. However, for reasons unknown to the applicant, when the Zoning Board granted a use variance in 1983, it required the previous owner, as a condition of the approval, to deed restrict the property to prevent it from being subdivided. The applicant now requests that the Board terminate this restriction in order to permit the property to be subdivided. At the public hearing on this application, the applicant will present testimony establishing that sound planning principles support the termination of this restriction.

The property is an oversized lot, containing 26,000 sf where 12,000 sf is required. Therefore, each of the two proposed lots will comply with the bulk requirements for the R-2 zone, including lot area, lot width and lot coverage. The only variance relief sought by the applicant relate to three existing nonconformities due to the location of the existing homes, as follows:

1. Section 450-28(C) – Minimum front yard setback: 30 ft required, 1.4 ft existing (on existing lot 19); 1.4 ft proposed on new proposed lot 19 (existing nonconformity which is not impacted by the proposed subdivision);
2. Section 450-28(D) – Minimum side yard setback: 10 ft required; 7.61 ft existing (on existing lot 19); 7.61 ft proposed on proposed lot 19.01 (existing nonconformity which is not impacted by the proposed subdivision);
3. Section 450-28(F) – Minimum outbuilding setback: 5 ft required; 0.66 ft existing (on existing lot 19); 0.66 ft proposed on proposed lot 19.01 (existing nonconformity which is not impacted by the proposed subdivision).

The applicant seeks variance relief from the Board relating to these three existing nonconforming conditions. The applicant also requests any additional variances, submission waivers, additional exceptions, design waivers, de minimis exceptions, modifications of conditions of prior approvals, continuation of any preexisting non-conforming conditions, other approvals reflected on the plans (as same may be further amended or revised from time to time without further notice) as may be determined to be necessary during the review and processing of the application by the Board and its professional staff, and permits requested or required by the Board at the public hearing.

The variances can be granted under N.J.S.A. 40:55D-70(c)(1) (hardship). All of the variance relief relates to the location of the existing homes on the lot. Strict application of the zoning ordinance requirements would therefore result in an undue hardship upon the applicant. Because the variances relate to setbacks and conditions which already exist on the lot today, the variances can be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the zoning ordinance.

II. Application Form No. 1 was filled out on January 19, 2024 by _____
(Applicants Signature)

III. Check Forms No. 3 through 19 for your appropriate application forms.

IV. A "complete application" requires the following submissions; please check items submitted with this form:

- Copies of this application
- Plot Plans
- Copies of 200 foot radius map
- Copy of "authorized" application form if applicant is not the property owner
- List of property owners within 200 feet of the property
- List of owner's notice and newspaper notice
- List other required submissions, e.g. payment of taxes, payment of fees, etc.

V. Full legal name of Applicant: Keith A. Borchers and Beth M. Borchers

Mailing Address: 1009 Sycamore Street

Town: Haddon Heights State: NJ Zip: 08035 Phone: 856 297 7241

Applicant interest in property (owner, tenant, lessee, purchaser under contract, other: owner)

Applicant is a: Corporation ; Partnership ; Individual(s) ; Other (specify) _____

If the applicant is a corporation or a partnership, please attach a list of the names and addresses of persons have a 10% interest or more in the corporation or partnership (Form No. 11).

If the applicant is not the owner of the property in question, the applicant must obtain and submit a copy of this application signed by the owner.

The applicant must also submit a list of witnesses and others working on behalf of the applicant to include the attorney, engineer, architect, planner, and others, identifying their mailing address, City, State, zip code, and telephone number.

Street Address of Property: 1009 Sycamore Street Tax Map Sheet: 08

Block: 70 Lot(s): 19 Date filed with County Recorder: _____

Situated on the side of Sycamore Street/Avenue distant ~330 feet in
a southwesterly direction from the corner of the west side of
Tenth Street/Avenue.

Is the property served by public sewer system? Yes No; Public Water System Yes No

Is the applicant willing to dedicate land for the widening of roads in compliance with the Borough or County Master Plan? Yes No

Is the proposed use located on a Municipal County or State road?

Area of property: _____ acres or 26,000 square feet. Frontage on an improved

Street 130 feet. The dimensions of the property are: 130x200.

Number of Proposed lots: 2 Present Zoning of Property: R-2.

Present Use of Property: two single family homes on one lot

Proposed Use of Property: 2 lots, each with a single family home

Describe proposed machinery, operation and products, if applicable: n/a

Description of all present structures: 2 story, 3 bedroom, 2,100 sf home

2 story, 2 bedroom, 1,350 sf house

Name, Profession, and License No. of Person Preparing Plat: John Donovan

license # GS 30738

Does this constitute a: New Application Expansion Alteration

Size of proposed buildings: n/a height in feet, _____ height in stories

Number of proposed buildings _____ Floor area of all structures: _____ square feet

Use of existing buildings and premises: single family homes

Percentage of coverage by all buildings: _____ By total impervious coverage: 26.6%

Estimated costs: Proposed Buildings \$ _____ Proposed Site Work \$ _____

Has a building permit been refused? Yes No Date: _____

Has a subdivision previously been granted? Yes No Date: _____

Has a use variance previously been granted? Yes No Date: April 19, 1983

Has a bulk variance previously been granted? Yes No Date: _____

Has a site plan previously been granted? Yes No Date: _____

Parking spaces required: _____ and provided: _____

Are there any existing or proposed covenants or deed restrictions on the property? Yes No

If yes, please explain: The applicant proposes to an easement to permit

both of the proposed lots to utilize the existing driveway

Is a variance requested? Yes No If yes, describe in detail the section of the Land Development Ordinance from which the applicant seeks relief: See enclosed summary of application

If this application has arisen as the result of a denial of a zoning permit, please secure from the Zoning Enforcement Officer a letter giving reasons for denying the zoning permit and submit it with this application.

Have there been any previous Planning Board hearings involving this property? { } Yes { } No
If the answer is yes, please attach a copy of the written decision(s) adopted by the applicable board.

Attach a brief statement entitled "Proposal" setting forth the particulars of the proposed use of the property (if other than single family residential) and a description of the proposed physical changes to the property. (Include all physical improvements, such as structures, additions, landscaping, etc.)

Applicant is responsible to publish and serve notice of this application in accordance with the Borough's Land Development Ordinance; however, notice may not be affected until this application is certified by a notary.

VI. Attach a list of all plans, calculations, data and other exhibits submitted, by title and date, indicating names, addresses, license number, and phone number(s) of preparer.

VII. I - hereby certify that the above statements, information, and exhibits herewith submitted are true and correct to the best of my knowledge and that I am to file this application and act on behalf of the signatories of the above authorization. I further authorize Borough officials to inspect the site noted above.

[Signature]
(Signature of Owner)

Kristopher J. Berr, Esquire
(Signature of Applicant)

01/10/24
(Date)

Attorney for Applicant-Owner
(Title)

Sworn to & subscribed before me this 10 day of January, 2024.

[Signature]
(NOTARY)

Person to be contacted regarding matters Pertaining to this application, if other than myself:

Name: Kristopher J. Berr, Esquire

Phone Number: 856-427-4200

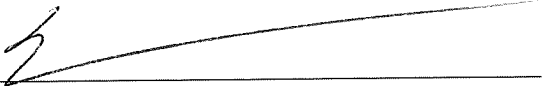
AGREEMENT TO PAY FOR PROFESSIONAL REVIEW

Date: January 10, 2024

Applicants Address: 1009 Sycamore Street Block: 70 Lot: 19.

Keith Borchers, agrees to pay for any professional review necessary for
(Name of Developer)

the above construction.



(Signature) Kristopher J. Berr, Esquire

Attorney for Applicant-Owner

(Title)

Borough of Haddon Heights

514 W. Atlantic Avenue
Haddon Heights, NJ 08035
(856) 546-2580

Case No. _____

**Planning Board
Minor Subdivision or Minor Site Plan Checklist**

Applicant: Keith and Beth Borchers

Address: 1009 Sycamore Street

Phone: _____ Site Location: 1009 Sycamore Street

Date: January 10, 2024 Signature of Applicant: *Kristopher J. Berr, Esquire*

Note: See Section 103-157 for further details of submission requirements and procedures.

- Application form and plans for completeness review (3 copies)
- Application form (14 copies)
- Plats or plans (14 copies) signed and sealed by a N.J. Professional Land Surveyor or N.J. Professional Engineer, as required, and folded into eighths with title block revealed.
- Scale of not less than 1 inch = 30' on one of the following standard sheet sizes (8 1/2" X 13", 15" X 21", 24" X 36" or 30" X 42").
- Key map no less than 1 inch = 100'.
- Title block:
 - Name of subdivision or development, Borough of Haddon Heights, Camden County;
 - Name, title, address and telephone number of sub divider or developer.
 - Name, title, address and license number of the professional(s) who prepared the plot or plan.
 - Scale; and,
 - Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet.
- Acreage figures (both with and without areas within public rights-of-way), to the nearest tenth of an acre or square footage.
- North Arrow
- Approval signature lines on drawing.


- Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Borough Tax Map.
- Subdivision or development boundary line (heavy solid line).
- The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within two hundred (200') of its boundary.
- Owner certification.
- The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.
- Zoning districts affecting the tract, including district names and requirements.
- Proposed buffer and landscaped areas.
- Delineation of flood plains, including both floodway and flood fringe areas.
- Delineation of wetlands and wetland buffers.
- Contours as shown on the U.S.G.S. topographic sheets, but no less than one (1) foot intervals.
- Marshes, ponds and land subject to flooding within the tract and within one hundred (100') thereof.
- The names of all adjacent property owners as they appear on the most recent tax list prepared by the Planning Board Secretary.
- Certification from the Borough Tax Collector that all taxes and assessments are paid to date.
- Concerning minor subdivisions only, existing and proposed monuments.
- Road right-of-way dedication and improvements, as applicable.
- Sight triangle easements, as applicable.
- Deed descriptions, including metes and bounds, easements, covenants, restrictions, and roadway and sight triangle dedications.
- Plans of proposed improvements and/or utility layouts as required by Ordinance; and required letters from appropriate state and county agencies granting approval for the extension of utility service(s).
- Proposed and existing signs (detail).
- Architectural or historical significance of any existing buildings to remain or to be removed.
- Photographs of any unusual topographic, environmental, historic or physical aspect.

- Location of existing building to remain or to be removed.
- Traffic statement, including present and anticipated volumes, roadway capacity, network problems, and needed improvements.
- Indicate improvement coverage and land areas:
 - Number of units;
 - Square feet of construction;
 - Density and building coverage;
 - Number of employees;
 - Number of residents;
 - Number of school children.
- Schedule of desired development time frame from Borough review function to completion & occupancy.

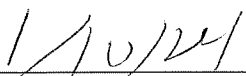
Key: (X) Complete (W) Request Waiver

The Planning Board may waive submission of any required exhibits in appropriate cases and for specific reasons. Request for such waivers shall accompany a minor subdivision or site plan application, stating the reasons that such a waiver is being requested.

The Planning Board reserves the right to acquire additional information before granting minor approval when unique circumstances affect the tract and/or when the application for development poses special problems for the tract and the surrounding area. Such information may include, but not limited to: drainage calculations and traffic analysis, provided, however, that no application shall be declared incomplete for lack of such information.



 Signature and title of person who completed checklist



 Date

Kristopher J. Berr, Esquire/Attorney for Applicant-Owner

Kristopher J. Berr, Esquire
kjb@delducalewis.com

January 10, 2024

VIA HAND DELIVERY

Suzanne Ritter
Borough of Haddon Heights
Planning and Zoning Board Secretary
514 W. Atlantic Avenue
Haddon Heights, NJ 08035

RE: KEITH AND BETH BORCHERS
1009 SYCAMORE STREET, BLOCK 70, LOT 19, HADDON HEIGHTS, NEW JERSEY

Dear Suzanne:

This firm represents Keith and Beth Borchers (“Applicant”), owners of real property located at 1009 Sycamore Street and designated as block 70, lot 19 on the municipal tax map. The property is currently improved with two single-family homes, pursuant to a use variance granted in 1983. The Applicant seeks minor subdivision approval to subdivide the lot into two lots so that each dwelling can be on its own separate tax lot.

I enclose the following:

1. Seventeen (17) copies of the Planning Board Application with a Summary of Application and application checklist;
2. Seventeen (17) copies of a Subdivision Plan, prepared by Donovan Surveyors, dated November 16, 2023 (1 sheet);
3. Seventeen (17) copies of color photographs of the property;
4. One (1) proof of current taxes;
5. One (1) copy of the 200 ft list request submitted to the tax assessor;
6. Two (2) checks as follows: \$250.00 (application fee) and \$1,375.00 (engineering escrow);
7. An electronic copy of this submission.

Suzanne Ritter
Borough of Haddon Heights
January 10, 2024
Page 2

Please place this matter on the next available Planning and Zoning Board agenda.

Thank you.

Very truly yours,
DEL DUCA LEWIS & BERR, LLC

Kristopher J. Berr

Kristopher J. Berr, Esquire

LMD:
Enclosures

cc: Keith and Beth Borchers (via e-mail)
Jack Donovan, PLS, PP (via e-mail)









RESOLUTION

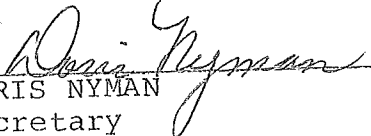
Case #8-80-2
Historic District Application
Gregory A. McAdams
1009 Sycamore Street
Block 70, Lot 19

WHEREAS, Gregory A. McAdams has present an application to the Planning Board of Borough of Haddon Heights on August 21, 1980 for improvements to made to the kitchen area of the house only and the application having been considered by the Planning Board of the Borough of Haddon Heights and the roll call vote having that the vote is as follows:

Mr. McGrath	Yes
Mr. Perino	Yes
Mr. Sandmeyer	Abstained
Mr. Starrett	Yes
Mr. DeMartini	Yes
Mr. Troutman	Yes
Mr. DeAngelo	Absent

Application approved, 5 Yes, 1 Abstention, 0 No.

NOW, THEREFORE, BE IT RESOLVED that the application of Gregory McAdams for approval of improvements to the kitchen area of the home located at 1009 Sycamore Street, is hereby approved.


DORIS NYMAN
Secretary

I, DORIS NYMAN, Secretary of the Haddon Heights Planning Board, hereby certify the foregoing to be a true and correct copy of the resolution adopted by the Planning Board of Haddon Heights at their regular meeting held August 21, 1980 in the Municipal Building at 625 Station Avenue, Haddon Heights, New Jersey 08035.



DORIS NYMAN
Secretary

RESOLUTION OF THE PLANNING BOARD OF THE
BOROUGH OF HADDON HEIGHTS

91-4-2P

WHEREAS, Gregory and Anne McAdams are the owners of the land and premises located at 1009 Sycamore Street in the Borough of Haddon Heights, County of Camden and State of New Jersey; and

WHEREAS, the applicants propose to rehabilitate and enlarge a rear porch on this property; and

WHEREAS, the applicants have made a presentation to the Board concerning the application, including testimony, plans and other evidence; and

WHEREAS, the matter was opened to the public for their response and input concerning the application; and

WHEREAS, the Planning Board of the Borough of Haddon Heights, after carefully considering the evidence presented to it, has found the following facts:

1. Applicants own a residence at the above location and are planning a rehabilitation and enlargement of a rear porch.
2. Applicants have met with the Historic District Advisory Committee, which has approved the application as presented.
3. Permitting the proposed rehabilitation and enlargement of a rear porch by the applicants will not have any adverse impact on neighboring properties in the residential district.

WHEREAS, the Planning Board has further come to the determination that granting this application to rehabilitate and enlarge a rear porch on the premises would be in the best interests of the Borough of Haddon Heights.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Haddon Heights that the application of Gregory and Anne McAdams to rehabilitate and enlarge a rear porch on premises located at 1009 Sycamore Street be approved as presented.

Upon motion and seconded to approve the application, the roll call vote was as follows: William Troutman - yes; Tom Ferrese - yes; Mayor Longo - yes; Fred Berger - yes; Ernest Merlino - yes; John Degan - yes.

The foregoing is a true memorializing Resolution as adopted by the Planning Board of the Borough of Haddon Heights and in accordance with the decision at its regular meeting on April 18, 1991.

Dated: *June 20, 1991*

Eileen Pollock

Eileen Pollock, Secretary

ZONING BOARD OF ADJUSTMENT
HADDON HEIGHTS, NEW JERSEY

#3-83-3

REPORT AND FINDINGS:

At a duly notice meeting held Tuesday, March 15, 1983, at 8:00 P.M., the Zoning Board of Adjustment met, at which time the following members were present:

Vincent Tomei, Chairman
William Siebenson
Russell Hansen
William Ezekiel
Ernest Smith
Edward Randow
Edward Wojtkowiak
Donald S. Ryan, Solicitor
Doris Nyman, Secretary

SUBJECT:

The Board considered the petition of Gregory A. McAdams who resides at 1009 Sycamore Street, Haddon Heights, and who seeks the following relief pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70(d) and the Haddon Heights Zoning Code:

1. A use variance to construct and use a two story carriage house building containing two bedrooms which will result in two dwelling units on one lot.
2. A variance from the rear yard setback requirement (30') so as to permit a 15 foot setback.

After the Petition was read, the applicant's attorney, Juhan Runne, Esquire, introduced Gregory McAdams and Anne Marie McAdams who testified in support of the application.

The applicant also introduced the following exhibits into the record:

- A-1. Four photographs of McAdams house and surrounding lands.
- A-2. Sketch plat of proposed carriage house building.
- A-3. Haddon Heights Tax Map showing adjoining properties within 200 feet.
- A-4. Form of Notice of Hearing served upon surrounding property owners.
- A-5. Affidavit of Service.
- A-6. Affidavit of Publication of Hearing.
- A-7. Survey of property of R.W. Humphries, L.S. dated November 15, 1982.

The following neighbors testified in support of the application: Conrad Gilbert, 1007 Sycamore Street, Joan Rossler, 1013 Sycamore Street, William Kuhn 1003 Sycamore Street.

FINDINGS OF FACT AND CONCLUSIONS:

The Board, having been advised by the Solicitor that the Petition, Notice to Property Owners, Notice of Publication and Affidavits were in proper form, and having examined the Exhibits and considered the testimony, finds as follows:

1. The subject property is located at 1009 Sycamore Street, Haddon Heights, New Jersey, and is designated as Lot 19,

Block 70, on the Tax Map of Haddon Heights. The property and the surrounding lots are located in the Residential Zoning District.

2. The property is owned by Gregory A. McAdams and Anne Marie McAdams, his wife. There is a large 2 1/2 story dwelling located on the property with two annexed buildings. The dwelling is a certified historical building dating back to about 1740.

3. The lot dimensions as shown on the survey of R. W. Humphries, are 130 feet frontage on Sycamore Street and 200 feet in depth. The total square footage of the lot is 26,000. Thus applicant could easily subdivide the lot into two building lots, if it were not for the location of the existing historical residence. The Haddon Heights Planning Board previously deferred action on an application for minor subdivision. The applicant prefers to maintain the entire lot without subdivision.

4. The applicant proposes to construct a two story "carriage style" dwelling located toward the rear of the westerly portion of the lot. The location of the new building would be 15' from the rear property line and therefore requires a variance from the 30' rear yard requirement of the zoning ordinance.

5. The applicant resides in the existing dwelling and proposes that his mother-in-law and father-in-law will reside in the new dwelling. The proposed location of the new building is most satisfactory to the applicant in order to preserve the architectural and historical significance of the existing historical buildings in the overall setting.

6. The Zoning Board is wary about establishing any precedent in establishing more than one residential unit on one lot. The unique circumstances (i.e. historical site, large lot size, and other factors in the record) of this application warrant a finding of "special reasons" to support granting the use variance here.

The Zoning Board further concludes that the proposed variances would not be substantially detrimental to the public good nor would granting the variances substantially impair the zone plan.

On the motion of William Ezekiel, seconded by William Siebenson, the Board voted unanimously (7-0) to grant the use variance to permit the construction and use of the detached carriage house dwelling on the same lot as the existing dwelling subject to the following conditions:

- 1) A deed restriction, approved by the Zoning Board Solicitor, providing that no owner of the land will subdivide the premises.
- 2) Approval of the proposed septic system by the Borough Engineer.
- 3) Will tie into the Municipal Sewer System within 90 days when made available.

ROLL CALL VOTE:

Ernest Smith	-	Yes
William Siebenson	-	Yes
Vincent Tomei	-	Yes
Russell Hansen	-	Yes
William Ezekiel	-	Yes
Edward Wojtkowiak	-	Yes
Edward Radow	-	Yes

The foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Borough of Haddon Heights at a duly noticed hearing on the 19th day of April, 1983, memorializing the actions of the Board taken March 15, 1983.


DORIS NYMAN, Secretary

Dated: April 19, 1983.

On the motion of William Ezekiel; seconded by William Siebenson; the Board voted unanimously (7-0) to grant the rear yard setback variance so as to permit a 15' setback.

ROLL CALL VOTE:

Ernest Smith	-	Yes
William Siebenson	-	Yes
Vincnet Tomei	-	Yes
Russell Hansen	-	Yes
William Ezekiel	-	Yes
Edward Wojtkowiak	-	Yes
Edward Radow	-	Yes

ZONING BOARD OF ADJUSTMENT
HADDON HEIGHTS, NEW JERSEY
RESOLUTION #02-1-3Z
DENYING A REQUEST TO REMOVE
A CONDITION OF A PREVIOUS USE VARIANCE GRANTED
TO GREGORY McADAMS FOR THE PREMISES
1009 SYCAMORE STREET
HADDON HEIGHTS, NEW JERSEY

At a duly noticed meeting held on November 7, 2002, at 8:00 P.M., the Zoning Board of Adjustment met, at which time, the following members were present:

William Haddix, Chairman	(disqualified himself from participating)
Vincent Cangelosi, Vice Chairman	
Corrine Webb	(disqualified herself from participating)
Leonard Wojtkowiak	
Carol Candy	
Rita Rapa	
Vernon Mammucari	
James McLaughlin	

Also present: Donald S. Ryan, Solicitor
Eileen Pollock, Secretary
Tim Daley, Zoning Enforcement Officer

SUBJECT:

The Board considered the application of Gregory A. McAdams, who currently resides at 1006 S. Park Avenue, Haddon Heights, New Jersey. The applicant seeks to remove a condition imposed by the Haddon Heights Zoning Board when a use variance was granted to the subject premises in 1983. The applicant also seeks subdivision of the subject premises as well as a bulk variance. The application is made pursuant to

the New Jersey Municipal Land Use Law N.J.S.A. 40:55D-1, et seq. and the provisions of the Haddon Heights Zoning Code.

The applicant were represented at the hearing by Thomas Ehrhardt Esquire. The following witnesses were sworn and testified in support of the application: Gregory A. McAdams, Anne McAdams, and Robert Rexon, a licensed real estate sales person.

The following exhibits were introduced as part of record:

- A-1 Tax Map of Haddon Heights showing the subject premises and surrounding premises in Blocks 67, 68, 69, 70, 71 and 72
- A-2 Resolution of the Haddon Heights Zoning Board #3-83-3 dated April 19, 1983
- A-3 Survey of R.W. Humphries, L.S., dated November 15, 1982
- A-4 Schedule of 25 properties located in Haddon Heights listed for sale with real estate agents during the period from 2000-2002
- A-5 Schedule of 67 properties sold in the town of Haddon Heights during the period from 2000 to 2002
- A-6 Application of Gregory McAdams dated August 13, 2002
- A-7 Notice of Hearing to surrounding property owners
- A-8 Affidavit of Service
- A-9 Affidavit of Publication
- A-10 Survey of John Donovan, L.S. dated August 2, 2002 entitled "Proposed Minor Subdivision of Lot 19, Block 70"

FINDINGS OF FACT:

The Board, having determined that the Application, Notice to Property Owners, Notice of Publication and Affidavits were in proper form, and having examined the Exhibits and considered the testimony, finds as follows:

1. The applicant is Gregory A. McAdams, who currently resides at 1006 South Park Avenue, Haddon Heights, New Jersey. The applicant and his wife,

Anne McAdams are the owners of the subject premises designated as 1009 Sycamore Street, Haddon Heights, New Jersey. The subject property is also designated on the Haddon Heights Tax Map as Block 70, Lot 19.

2. The premises are located in the R-2 Residential Zoning District. The premises are also designated as historic landmark under Section 103-106B(1) of the Haddon Heights Zoning Code.

3. The premises are located 330 feet Northwesterly from the intersection of Tenth Avenue and Sycamore Street. The premises are rectangular having frontage on Sycamore Street of 118 feet and a depth of 200 feet. There is constructed in the front portion of the subject premises a 2 ½ story masonry dwelling, which dwelling was constructed in approximately 1764. There is also constructed in the rear portion a 2 ½ story frame building which was constructed after 1983. Each of the subject structures located on the lot are single family structures.

4. This applicant made an application to the Haddon Heights Zoning Board on March 15, 1983 in which applicant sought the following relief:

a. A use variance to construct and use a two story carriage house building containing two bedrooms which would result in two dwelling units on one lot.

b. A variance from the rear yard setback requirement of 30 feet to as to permit a 15 foot setback.

5. The Zoning Board granted the use variance with conditions which action was memorialized in a Resolution #3-83-3 adopted April 19, 1983.

6. The Board in its findings of fact found that although the Zoning Board was wary about establishing any precedent in establishing more than one residence on one lot, the unique circumstances (i.e. historical site, large lot size and other factors in the record) constituted special reasons to support the granting of the use variance requested with conditions.

7. The Board unanimously approved the use variance to permit the construction and use of the detached carriage house dwelling on the same lot as the existing dwelling, subject to the following conditions:

- a. a deed restriction approved by the Zoning Board Solicitor providing that no owner of the land will subdivide the premises.
- b. approval of the proposed septic system by the Borough Engineer.
- c. applicant will tie into the sewer system within 90 days when made available.

8. The applicant was represented by a licensed attorney of the State of New Jersey at the time of the hearing.

9. There was no appeal from the Zoning Board decision and Resolution dated April 19, 1983.

10. In accordance with the Zoning Board Resolution, the applicant executed a Deed dated February 8, 1984, which deed was recorded in the Office of the Clerk of Camden County in Deed Book 3954, Page 502. The Deed provided in pertinent part:

"Grantors hereunder, for themselves, their heirs, executors, administrators and assigns hereby jointly and severally covenant and agree that the land and premises herein described shall forever be held as one tract, and that no subdivision of said land and premises shall be made or undertaken in any subsequent conveyance thereon.

It is understood and agreed that this conveyance is made and that the within described land and premises granted subject to the foregoing covenant, which covenant shall apply to and run with said land and premises and that the covenant is made in accordance with the conditions of Resolution #3-83-3 of the Haddon Heights Zoning Board of Adjustment, adopted by said Board on April 19, 1983."

11. The applicant now applies for removal of the condition which prohibits subdivision and the applicant proposes to subdivide the premises into two lots as shown on the proposed minor subdivision of John Donovan dated August 2, 2002. One of the lots would be a "flag lot" thus requiring bulk variances.

12. The initial question for the Zoning Board to determine is whether the applicant has demonstrated changed circumstances to warrant the reconsideration of the imposition of a prohibition against subdivision or stated another way, whether the applicant is precluded from proceeding on the application based upon the legal *doctrine of res judicata*.

13. The *doctrine of res judicata* seeks to prevent the same case being brought before a Court or an administrative body to decide an issue which as already been decided. However, if there is a sufficient change in the application itself or the conditions surrounding the property, the Zoning Board may consider the application. Russell v. Tenaflye 31 N.J. 58 (1959).

14. The applicant introduced A-1 which is the Tax Map of the surrounding premises in order to support the proposition that there have been subdivisions in the Borough of Haddon Heights since 1983 and thus there are changed circumstances. Applicant did not introduce any of the written Resolutions adopted by municipal agencies involved with respect to the subdivisions nor was the applicant aware of the dates of the subdivisions or any facts underlying the subdivision. There is no evidence that any of the subdivisions involved historical landmarks.

15. The applicant also introduced Robert Rixon, a licensed realtor to testify with respect to the listings and sales of properties in Haddon Heights during the last several years. The Applicants contend that the inability to subdivide the subject property reduces the marketability of the premises. Mr. Rixon testified that he had received an offer for the premises without a subdivision in the amount of \$325,000.00. The property was originally listed for \$519,000.00 and is now listed at \$429,900.00. The tax assessment on the subject premises is \$283,700.00.

CONCLUSIONS

16. The Board finds that the subject premises are not unmarketable and that the alleged economic hardship of the applicant is not sufficient changed circumstances to warrant reconsideration of the condition prohibiting subdivision.

17. The Board also finds that there is insufficient competent evidence with respect to changed circumstances based upon the subdivisions which

may have been granted by the municipality for lots in the surrounding areas, particularly in view of the fact that the subject lot is a unique historical lot.

ROLL CALL VOTE:

On the motion of Vincent Cangelosi, seconded by Carol Candy, the Board voted 6-0 to apply the *doctrine of res judicata* to the applicant's application for development and thus the application is denied.

William Haddix, Chairman	disqualified himself
Corrine Webb	disqualified herself
Vincent Cangelosi	Yes
Leonard Wojtkowiak	Yes
Rita Rapa	Yes
Carol Candy	Yes
Vernon Mammucari	Yes
James McLaughlin	Yes

The foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Borough of Haddon Heights at a duly noticed meeting on the 18th day of December, 2002, memorializing the action of the Board taken at its meeting on November 3, 2002.


EILEEN POLLOCK, Secretary

Dated: December 18, 2002
Amended: January 9, 2003

Mr. McLaughlin voted yes, the resolution indicated a no vote
Correction of spelling of Mr. McAdams Solicitor, Thomas Ehrhardt
Correction of date formalized to December 18, 2002

Case No. 02-09-2P

RESOLUTION OF THE PLANNING BOARD
OF THE BOROUGH OF HADDON HEIGHTS
GREGORY A. McADAMS
1009 SYCAMORE STREET
BLOCK 70, LOT 19
SUBDIVISION DENIAL

WHEREAS, Gregory McAdams, ("Applicant") is the owner of certain premises situated at 1009 Sycamore Street, Haddon Heights, New Jersey, also known as Block 70, Lot 19 on the Tax Map of the Borough of Haddon Heights ("Property"); and

WHEREAS, the Applicant proposes to subdivide the Property to create two individual lots; and

WHEREAS, the Applicant presented the application to the Haddon Heights Planning Board, along with testimony and other evidence at a meeting held September 19, 2002; and

WHEREAS, the Planning Board of the Borough of Haddon Heights after careful consideration of the application and evidence presented found the following facts:

1. Applicant, Gregory McAdams, is the owner of the Property.
2. The Applicant appeared before the Haddon Heights Planning Board on September 19, 2002 and presented testimony in support of the application.
3. The Applicant has provided proper public notice of the application.
4. The Applicant proposed to subdivide the Property to create two lots, each lot to contain one of the existing dwellings on the Property.
5. On or about April 19, 1983, the Zoning Board of Adjustment of the Borough of Haddon Heights granted a variance pursuant to N.J.S.A.

40:55D-70(d), permitting the construction of a two-story carriage house in the rear of the Property.

6. The N.J.S.A. 40:55D-76b, states that the Zoning Board of Adjustment "shall have the power to grant, to the same extent and subject to the same restrictions as the planning board, subdivision or site plan approval pursuant to article 6 of this act [N.J.S.A. 40:55D-37 et. seq.] or conditional use approval pursuant to section 54 of this act [40:55D-67] whenever the proposed development requires approval by the board of adjustment of a variance pursuant to subsection d. of section 57 of this act (C. 40:55D-70).
7. N.J.S.A. 40:55D-37a states, "[p]rovided that the resolution of the board of adjustment shall substitute for that of the planning board whenever the board of adjustment has jurisdiction over a subdivision or site plan pursuant to subsection 63b [N.J.S. 40:55D-76b] of this act."
8. *Cox, New Jersey Zoning and Land Use Administration* (GANN 2002), Section 14-3.3 states that the forgoing sections of the Municipal Land Use Law "permit[] consecutive as well as concurrent applications and makes it clear that in the event of any subsequent application it is the zoning board of adjustment that has jurisdiction."
9. The Board found that the Zoning Board granted a "use" variance for the Property in 1983, and the Planning Board is not aware of the conditions of the approval nor the representations made in relation to that application.
10. Based upon the relevant sections of the Municipal Land Use Law cited above, the passage cited from *Cox*, and the fact that the Board is not aware

of the circumstances under which the "use" variance was granted, the Board finds that it does not have jurisdiction to grant the relief requested by the Applicant and that the application should be transferred to the Zoning Board.

WHEREAS, the Planning Board of the Borough of Haddon Heights having carefully considered the evidence presented by the Applicant has concluded that the application for Minor Subdivision Approval shall be DENIED WITHOUT PREJUDICE due to its lack of jurisdiction and that the application shall be transferred to the Zoning Board.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Haddon Heights that the application of Gregory McAdams, is denied without prejudice as noted above.

UPON MOTION DULY MADE by Quinn DeMenna and seconded by Kevin Richards, to exercise jurisdiction over the application, the roll call vote was as follows:

IN FAVOR: None.

OPPOSED: Quinn DeMenna, Joanne McLaughlin, Kevin Richards, Beth Ann Haven, Earl Shubert and Brian Klutchnick.

UPON MOTION DULY MADE by Kevin Richards and seconded by Joanne McLaughlin, to deny the application without prejudice and transfer the application to the Zoning Board of Adjustment the roll call vote was as follows:

IN FAVOR: Quinn DeMenna, Joanne McLaughlin, Kevin Richards, Beth Ann Haven, Earl Shubert and Brian Klutchnick.

OPPOSED: None.

The foregoing is a true and memorializing resolution adopted by the Planning Board of the Borough of Haddon Heights and is in accordance with its decision at its meeting of.

Dated: October 21, 2002

Eileen Pollock
EILEEN POLLOCK, SECRETARY

Case No. 02-09-2P