

**LAND USE PLANNING BOARD OF THE
TOWNSHIP OF EASTAMPTON**

RESOLUTION #18- 2022

**ON THE APPLICATION OF DEREK AND ASHLEY DUBOIS
GRANTING A SPECIAL REASONS VARIANCE PURSUANT TO
N.J.S.A. 40:55D-70d(1) TO PERMIT THE BASEMENT OF
THE HOUSE LOCATED AT BLOCK 902, LOT 58, 24
CARRIAGE DRIVE, TO BE CONVERTED TO A SEPARATE
LIVING AREA FOR THE PURPOSE OF CREATING A MULTI-
GENERATIONAL HOUSING UNIT**

WHEREAS, Derek and Ashley DuBois ("Applicants"), the owners of the house located on Block 902, Lot 58, 24 Carriage Drive ("Property"), have applied to the Land Use Planning Board ("Board") for a special reasons variance pursuant to N.J.S.A. 40:55D-70d(1) to renovate the basement of the house, which is located in the R-M Residential Medium Density District where only single family dwellings are permitted, into an independent unit of multigenerational housing; and

WHEREAS, the Applicants set forth the following explanation for the requested relief:

Applicant seeks a Use Variance for the permitted single-family dwelling to permit the proposed improvement to the basement of the residential dwelling for the applicants elderly mother (Nancy Braun) to include an "in-law suite" which will include a new bedroom, closet, bathroom, kitchen, living area and washer/dryer storage area.... The walk-out basement will have its own exterior door to the rear of the property. Ms. Braun is a widowed (sic) and current (sic) resides with the Applicant. Her medical conditions makes it difficult and unsafe to climb steps. The Applicant desire (sic) for her mother to reside with her family and not live in an assisted living arrangement. The

proposed renovated basement will give her mother independent living and make her living conditions safer; and

WHEREAS, the Applicants in their application offered that were the variance granted they would accept the following conditions, which are to run with the land so as to be binding on future owners: the Property will remain a single-family dwelling; the renovated basement shall not be rented or leased, or used as a bed and breakfast, and the renovated basement may only be used by a family member of the Property's owner; and

WHEREAS, the Applicants gave notice of a hearing before the Board on July 20, 2022, and on said date and appeared with their attorney, Alan P. Fox, Esquire, and Councilman Santillo and Councilman Springer were excused as they are not permitted by law to participate in "d" variance applications; and

WHEREAS, Board Planner, Mark A. Remsa, PP, LLA, AICP, ASLA, issued a review letter dated June 9, 2022, and Board Attorney David M. Serlin, Esquire, issued a review letter dated July 18, 2022, discussing the case law, a copy of each being provided to the Applicants; and

WHEREAS, Mr. Fox advised that the Applicants were seeking to renovate the unfinished basement into a separate living area for Mrs. DuBois's 67 year-old mother who due to her medical condition is unable to negotiate steps. Mr. Fox further advised that the Applicants had submitted exhibits consisting of the application, a survey dated October 21, 2020,

prepared by Vallee Surveying, Inc., and the architectural plan for the basement prepared by Architectural Management, Inc.; and

WHEREAS, Ashley DuBois testified pursuant to oath as follows:

1. She and her husband closed on the Property on October 30, 2020.
2. The single-family house has two stories. It contains five bedrooms, an unfinished basement, a two-car garage, and a driveway where two additional cars can park.
3. She is employed as a probation officer and her husband is a parole officer. They reside in the house with their two children and her mother.
4. She is an only child who wishes to provide an independent living area for her widowed mother who is experiencing health issues which make it challenging for her to navigate the steps within the house due to her arthritic feet and bad back.
5. The house's footprint will remain unchanged. The only outside renovation will be to add French doors to provide a separate access to the backyard.
6. There will be no separate meters for utilities; and

WHEREAS, Mr. Fox submitted that the purposes of the Municipal Land Use Law would be advanced by granting the variance to permit multi-generational housing as it is an appropriate use of the Property promoting the public health, safety, morals and general welfare by enabling families to

remain together and provide care for elderly parents, and the use also serves to promote appropriate population densities that contribute to the well-being of persons and neighborhoods and the preservation of the environment; and

WHEREAS, in discussion with the Board Planner the Applicants submitted that the variance could be granted without substantial detriment to the public good and that it would not substantially impair the intent and purpose of the zone plan and zoning ordinance as the use would remain residential, the appearance of the single-family home would remain unchanged, and the conditions offered by the Applicants would assure that the Property was only used to provide multi-generational housing; and

WHEREAS, the hearing was opened to the public and Zoning Officer Kathy Newcomb requested that a condition of any approval be that a certificate of occupancy not be issued until a deed has been reviewed and approved by the Board Attorney and Planner and recorded in the Burlington County Clerk’s Office, and there being no further public comment, the hearing was closed.

NOW THEREFORE BE IT RESOLVED by the Land Use Planning Board of the Township of Eastampton as follows:

1. The above preamble clauses are adopted as the findings of fact and conclusions of law.
2. The Board incorporates herein the June 9, 2022 review letter

prepared by Board Planner Mark A. Remsa, PP, LLA, AICP, ASLA, and the July 18, 2022 review letter prepared by Board Attorney David M. Serlin, Esquire.

3. The Board grants a variance pursuant to N.J.S.A. 40A:55D-70d(1) to permit the single family home located on Block 902, Lot 58, 24 Carriage Drive, to have the unfinished basement converted to a multi-generational unit consisting of a bedroom, closet, bathroom, kitchen, living area and washer/dryer storage area with a separate entrance as only single family dwelling units are permitted in the R-M Residential Medium Density District.

The Board finds that the use will promote the purposes of the Municipal Land Use Law as an appropriate use of the Property to address the needs of families to provide multigenerational housing to care for aging parents thereby benefiting the public health, safety, morals and general welfare. Additionally, the granting of the variance will promote appropriate population densities thereby contributing to the well-being of persons, neighborhoods, communities and the preservation of the environment.

The variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance as the use will remain residential and the house's appearance will be unchanged other than a modification of the access from the basement level. The conditions set forth hereinafter in paragraph 4 will further guarantee that there is no substantial detriment, or

substantial impairment of the zone plan and zoning ordinance by eliminating the possibility that the house can be converted into a multiple family unit occupied by unrelated persons.

4. The following conditions shall run with the land and be binding on the Applicants and their successors in title, and shall be set forth in a document reviewed and approved by the Board Attorney and Board Planner, and thereafter to be recorded in the Burlington County Clerk's Office: the Property shall remain a single family dwelling with a fully renovated basement including a kitchen and separate access to the rear of the Property, which may be occupied by a parent or parents of the owners of the Property or a single relative; no separate utility meters may be installed; and the basement living area may not be rented, leased or operated as part of a bed and breakfast. A relative is defined as an owner's sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister.

5. A certificate of occupancy may not be issued until a copy of the recorded document setting forth the restrictive conditions set forth above is received by the Land Use Administrator.

Members voting in favor of granting the variances on July 20, 2022: Vice-Chairperson Adams, Bayles, Capocci, Chieco, Giacobbe, Maluchnik, Chairperson Rodriguez, and Township Manager White.

Members voting in favor of adopting this resolution of memorialization on August 17, 2022: Capocci, Giacobbe, Chairperson Rodriguez and Township Manager White.

The foregoing is a true copy of a resolution adopted by the Land Use Planning Board of the Township of Eastampton at its meeting held on August 17, 2022, memorializing action taken at its meeting held on July 20, 2022.

LAND USE PLANNING BOARD OF
THE TOWNSHIP OF EASTAMPTON



KIM-MARIE WHITE
Land Use Administrator