

# APPLICATION TO VARY OR MODIFY THE PROVISIONS OF THE ZONING ORDINANCE

## SUBMISSION ITEMS & APPLICATION

1. TWO (2) COLLATED SETS OF THE FOLLOWING:
  - Completed Application to Vary or Modify the Provisions of the Zoning Ordinance (one with original signature).
  - Completed Declaration of Applicable Subsection (one with original signature).
  - Zoning Department / Zoning Review Officer's denial letter.
  - **Original survey** showing existing conditions of the property.
  - **Proposed survey** showing the proposed buildings and structures drawn to scale with all dimensions for the proposed changes and all set backs from all property lines (front, rear and side yard setbacks).
  - **Architectural Plans:**
    - Must have the seal of a licensed New Jersey Architect, and be folded to fit in mailing envelope
    - **ALL FLOOR PLANS – must include detailed dimensions.**
    - **ALL ELEVATIONS – must include detailed dimensions for heights and widths.**
    - **Areas of changes/alterations should be clearly delineated.**
  - Photographs of subject property and/or areas of proposed changes
2. Fees as required by Ordinance: (Please make checks payable to the Township of Livingston.)  
**All fees collected are non-refundable.**
  - "C" Variances/Yard Variances – \$200.00 for first variance and \$100.00 for each additional variance.
  - "D" Habitable Floor Area Variance – \$300.00
  - "D" Habitable Floor Ratio Variance – \$300.00
  - Use Variance – \$500.00 for single-family residential; \$1,000.00 for all others
  - Board Interpretations – \$300.00
  - Administrative Appeal – \$200.00
3. One (1) completed *Application for Development*, which will provide certification from the Tax Collector that no taxes or assessments for local improvements are due or delinquent.
4. One (1) completed *Request for Certified List of Property Owners*, in order to obtain list of all property owners within 200 feet of the property, with cash or check in the amount of \$10.00. Please make checks payable to the Township of Livingston.
5. One (1) completed *Permission to Inspect* form in order for the members of the Zoning Board or any Township officials of the Township of Livingston to visit the property in question.
6. For corporations, partnerships or limited liability companies the following submission items must be submitted in addition to the above:
  - One (1) completed *10% Owners List / Ownership Disclosure Statement*.
  - Escrow deposit in the amount of \$1,000.00 – Checks payable to the Township of Livingston
  - W9 Form

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Once all of the mandatory submission items have been given to the Planning Department and the application has been deemed complete, the applicant will be notified by email and scheduled for the next available hearing date. The applicant will also be scheduled for a meeting with the Planning Administrator to review the application as well as final submission items (listed below) that must be returned to the Planning office TEN (10) DAYS prior to the hearing date.

## **ITEMS REQUIRED ONCE HEARING DATE IS SET**

1. Ten (10) additional copies of the application, surveys and plans. All copies must be **collated and organized** to be distributed to the Board members.
2. Notice of Hearing must be placed in the West Essex Tribune **ten (10) days** prior to hearing date. Return notarized Affidavit of Publication (issued by the West Essex Tribune with copy of Public Notice article) to the Planning office for the file.
3. Provide all property owners within 200 feet of property with the ***Zoning Board of Adjustment Notice of Hearing*** letter via hand delivery or via Certified US Mail. Complete and notarize Affidavit of Service of Notice including signatures of all property owners that received the letter via hand delivery and/or provide original receipts of all Certified US Mail recipients. Form can be notarized at Town Hall; provide Planning office a copy of notice for the file.

## **ESCROW DEPOSITS**

***(Required for corporations, partnerships or limited liability companies)***

In accordance with the Ordinances of the Township of Livingston (§170-52B), escrow accounts are established to cover the cost of professional services including but not limited to planning, engineering, legal, meeting fees incurred (i.e. court reporter) and other expenses associated with the review of submitted materials. If additional sums are deemed necessary, the Board Administrator will notify the Applicant of the required additional amount. Sums not utilized in the application process shall be returned upon written request by the Applicant. ***A W-9 Form (Request for Taxpayer Identification Number and Certification) must be completed and submitted with any required escrow deposits.***

## **ATTACHMENTS:**

- Application to Vary or Modify the Provisions of the Zoning Ordinance
- Declaration of Applicable Subsection
- Application for Development (Certification of Taxes and Assessments)
- Request for Certified List of Property Owners within 200'
- Permission to Inspect
- The Planning and Zoning Board Public Hearing Process
- Zoning Board of Adjustment Information

Copies of the Board's Model Conditions of Approval can be obtained from the Planning Department or on-line at [www.livingstonnj.org](http://www.livingstonnj.org) / Planning Department.



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<b>DATE OF SUBMISSION</b>	<b>APPLICATION NUMBER</b>
<b>PLANNING DEPT FEES PAID</b>	
<b>FOR OFFICE USE</b>	

**BLOCK** \_\_\_\_\_ **LOT(S)** \_\_\_\_\_ **ZONE** \_\_\_\_\_

**PROPERTY ADDRESS** \_\_\_\_\_

**APPLICANT** \_\_\_\_\_ **TELEPHONE** \_\_\_\_\_

**ADDRESS** (if different from above) \_\_\_\_\_ **EMAIL** \_\_\_\_\_

**PROPERTY OWNER** (if different from above) \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**PROFESSIONAL(S) REPRESENTING APPLICANT** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_ **TELEPHONE** \_\_\_\_\_

\_\_\_\_\_ **EMAIL** \_\_\_\_\_

**BRIEF NARRATIVE OF PROPOSED IMPROVEMENTS** \_\_\_\_\_

**VARIANCE REQUEST(S)**

Violation	Code Section	Required or Allowed	Proposed	Variance Requested
<input type="checkbox"/> Front Yard Setback				
<input type="checkbox"/> Rear Yard Setback				
<input type="checkbox"/> Side Yard Setback				
<input type="checkbox"/> Side Yard Aggregate				
<input type="checkbox"/> Side Street / Corner Lot Setback				
<input type="checkbox"/> Between Structures				
<input type="checkbox"/> Building Height				
<input type="checkbox"/> Habitable Floor Area				
<input type="checkbox"/> Habitable Floor Ratio				
<input type="checkbox"/> Fences				
<input type="checkbox"/> Retaining Walls				
<input type="checkbox"/> Swimming Pool Setbacks				
<input type="checkbox"/> Other _____				



# APPLICATION TO VARY OR MODIFY THE PROVISIONS OF THE ZONING ORDINANCE

DESCRIPTION OF PREVIOUS DECISIONS BY THE ZONING BOARD

(or attach copies of decisions. If none, then state NONE.):

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<p>I hereby affirm that all of the above statement and statements contained in the papers submitted herewith are true.</p>	<p>I hereby affirm that I am the owner of the premises involved in this application and that I consent to the filing of the application.</p>
<p><i>Signature of Applicant</i> <span style="float: right;"><i>Date</i></span></p>	<p><i>Signature of Owner</i> <span style="float: right;"><i>Date</i></span></p>
<p><i>Address</i></p>	<p><i>Address</i></p>

**PUBLIC NOTICES ARE A JURISDICTIONAL REQUIREMENT. THE APPLICATION CANNOT BE HEARD UNTIL PUBLICATION AND PUBLIC NOTICE IS PROPERLY SERVED AND PROOF OF SAID NOTICE IS RECEIVED.**

**THIS APPLICATION DOES NOT RELIEVE THE APPLICANT FROM COMPLYING WITH OTHER TOWNSHIP ORDINANCES SUCH AS THE LOT SURFACE DRAINAGE, STORM WATER OR TREE REMOVAL ORDINANCES. OBTAINING THE NECESSARY APPROVALS AND PERMITS UNDER SUCH ORDINANCES WILL BE THE RESPONSIBILITY OF THE APPLICANT.**

ESSEX COUNTY PLANNING BOARD

In the event that this project is bounded on any side by a county road or is within 200' of another municipality or includes a subdivision, a county application must be completed and submitted to Essex County Planning Board directly. Submit to the Planning Department verification that the application was filed with the County Planning Board.

# APPLICATION TO VARY OR MODIFY THE PROVISIONS OF THE ZONING ORDINANCE

## DECLARATION OF APPLICABLE SUBSECTION

All applicants or appellants coming before the Planning Board or Zoning Board of Adjustment seeking variance approval shall complete and submit this form as part of the regular application forms. This form shall list the section of the Statute under which the application is made as well as the basic reasons that will be presented in order to obtain the relief sought.

The Planning Board and Zoning Board of Adjustment of the Township of Livingston has been established pursuant to the authority of the Municipal Land Use Law of the State of New Jersey (N.J.S.A. 40:55D-1 et seq.). Within the guidelines of that Statute, both Boards shall have the power, under certain circumstances, to grant variances pursuant to Section 40:55D-70.

*(Check which Section applies to the application.)*

- a:** Hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;
- b:** Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning official map ordinance in accordance with this act; and,
- c(1):** Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or 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, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to the property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship;
- c(2):** Where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that no variance from those departures enumerated in subsection d of this section shall be granted under this subsection; and provide further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use in conjunction with which the planning board has power to review a request for a variance pursuant to subsection 47 a. (C. 40: 55D-60a.) of this act.
- d:** In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a non-conforming use, (3) deviation from a specification or standard pertaining solely to a conditional use, (4) and increase in the permitted floor area ratio, (5) an increase in the permitted density except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or 2/3 of the full authorized membership, in the case of a regional board pursuant to article 10 of this act.

No variance or other relief may be granted under the terms of this section unless such variance or other relief 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. In respect of any airport hazard area delineated under the Air Safety and Hazardous Zoning Act of 1983, "P.L. 1983,c. 260 (c. C. 6:1-80 et seq.) no variance or other variance or other relief may be granted under the terms of this section permitting the creation or establishment of a nonconforming use which would be prohibited under the standards promulgated pursuant to that act except upon issuance of a permit by the Commissioner of Transportation.

Further, both Boards shall have the power to grant, as authorized by Section 40:55D-76, under certain circumstances, relief from subsections 25 and 27 (C. 40:55D 34 and C. 40:55D-36) as to:

- a(1):** Direction pursuant to section 25 of this act for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved and,
- a(2):** Direction pursuant to section 27 of this act for issuance of a permit for a building or structure not related to a street.

A short statement of the reason(s) why the Applicant believes that it is entitled to the relief requested under the appropriate section(s) is:

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*Signature of Applicant*

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*Date*