

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF LIVINGSTON
NEW JERSEY**

Case # 2011-48-V

Motion by: Mr. Hochberg

Second by: Mr. Ozarow

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the Application and plans filed in this matter, and the testimony and evidence presented at the hearing on October 25, 2011, the following findings of fact and conclusions are made:

1. The applicant is Cerebral Palsy of New Jersey.
2. The property is commonly known as 220 South Orange Avenue and is taxed as Block 7001 Lot 1.01. The property is in the R-1 Zone.
3. The applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrearages.
4. The applicant proposes to construct a new residence for disabled persons on the property.
5. Violation of Livingston Zoning Ordinance
(a) Section 170-96C(2) Front Yard Setback (75' required, 50' proposed; 25' variance requested)
6. The applicant was represented by John Inglesino, Esq. of the firm of Inglesino, Pearlman, Wyciskala & Taylor, LLC.
7. The following persons testified at the hearing: The applicant and Mr. Facchino, PE. Mr. Facchino explained that wetlands in the rear of the lot and a wetlands setback had forced the applicant to build its residence closer to the street and that the applicant had used a two story residence to prevent having to come closer to the street. He also testified to the average setback to the east was less than the 50 feet requested and the proposed setback for the project to the west was also less than 50 feet.
8. The following persons objected to or expressed interest in the application at the hearing: Susan and Michael Steinberg residing at 33 Rippling Brook Drive, Short Hills, NJ, Milton Resnick residing at 105 Browning Road, Short Hills, NJ, L. Frederick Polakoff, 12 Rippling Brook Drive, Short Hills, NJ. These members of the public were opposed to the grant of the variance and expressed concern with drainage, wetlands issues and the safety of the disabled persons who would be residing at the proposed residence.

9. The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (c)(1) for the relief sought by demonstrating that an undue or exceptional hardship would be imposed upon the applicant by a denial due the wetlands setback on the lot.

Based upon the above findings, there will be no detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance. Now, therefore, be it **RESOLVED** by the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston that the application herein submitted is granted the following variance from the Ordinance:

Front Yard Setback variance of twenty five feet (25').

This approval is subject to all other requirements of the Township ordinances, building code, and the right of appeal by any interested party. Also, as required by Livingston Ordinance 170-27(A), construction must be commenced within one year of the date hereof or the variance shall expire. All other permits required by the Ordinances must be obtained before a building permit will be issued.

Copies of the Applicant's survey showing the proposed improvements and architectural plans are attached hereto as an exhibit and signed by the Chairman to indicate the final version thereof.

The Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on October 25, 2011 in which Board voted to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



ALAN OZAROW

Dated: November 17, 2011

Prepared by: Herbert S. Ford, Esq.