

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

Case # 2011-8-V

Motion by: Mr. Ozarow

Second by: Mr. Klein

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 June 28, 2011, the following findings of fact and conclusions are made:

1. The applicant is Jon and Kip Mandlebaum.
2. The property is commonly known as 7 Brayton Road is taxed as Block 7402 Lot 4. 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 arrears.
4. The applicant was represented by Stephen Geffner, Esq.
5. The applicant proposes to construct a new single-family residence.
6. Violation of Livingston Zoning Ordinance
 - (a) Section 170-87AA(1) Maximum Habitable Floor Area (6200 allowed, 6983 proposed; 783 variance requested)
 - (b) Section 170-87CC(1) Maximum Habitable Floor Ratio (15% allowed, 19.1856% proposed; 7.1856% variance requested)
7. The following persons testified at the hearing: The applicants, William Toth, AIA and Richard Keller, PP and PE.
8. The following persons objected to or expressed interest the application at the hearing: Cindy Klein of 8 Brayton Drive, Greta Roesch of 6 Brayton Drive and David Mandelbaum of 36 Ross Road, the property to the rear of the applicant and owned by Mr. Jon Mandelbaum's parents.
9. The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (d)(4) for the relief sought by demonstrating that the residence will fit within the streetscape and that the property can accommodate the residence. The Board noted the new residence is narrower than the current residence but deeper. 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 lot is undersized for the zone and unusually shaped.

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 variances from the Ordinance:

Maximum Habitable Floor Area Variance of 783 sq ft is granted; and
Maximum Habitable Area Ratio Variance of 7.1856% is granted.

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.

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 June 28, 2011 in which Board voted with six votes cast in favor and none opposed to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

Mr. Klein and Hochberg recused themselves in this matter and Peter Klein, Chairman of the Planning Board and Richard Dinar, a member of the Planning Board, sat as members of the Board in accordance with applicable law.

CHAIRMAN:



ALAN OZAROW

Dated: July 26, 2011

Prepared by: HERBERT S. FORD, ESQ.