

**RESOLUTION**

**PLANNING BOARD**

**TOWNSHIP OF LIVINGSTON, NEW JERSEY**

Decided: *May 5, 2015*  
Memorialized: *June 2, 2015*

Re: Application No. 2003-15-PFSPV  
Applicant: Livingston Hills Building Associates, L.L.C. (formerly Westminster Realty, L.L.C.)  
Premises: Old Short Hills Road & East Cedar Street, Livingston, New Jersey  
Block 7300/7600 Lots 2, 9, 10, 11 & 15  
Zone: R-5C

**SUMMARY OF CASE**

1. The Applicant has previously applied for and was granted approval for Preliminary and Final Site Plan approval under Resolution in this matter memorialized on December 16, 2003.
2. The Applicant, Livingston Hills Building Associates, L.L.C., is the successor in interest to Westminster Realty, L.L.C.
3. The Applicant requests modification and amendments to the prior Resolution to request a variance as follows: The R-5C Zone requires a minimum building setback from a street of 40 feet. The Applicant proposes a setback of 36.33 feet, from Building 13 to the nearest street line, thus requesting a variance of 3.67 feet.
4. The Applicant was represented by Stephen Geffner, Esq., of the firm Schenk, Price, Smith & King, LLP.
5. A public hearing was held on this matter before the Board on May 5, 2015 with respect to this Application.

6. Testifying on behalf of the Applicant was Michael Lanzafama, of the firm Casey & Keller, admitted as an expert in engineering and planning.
7. The Applicant presented proof that all jurisdictional requirements have been met as to publication and service and that all taxes have been paid.
8. No persons appeared either in support of or opposition to the Application.

### **FINDINGS OF FACT**

1. The Board has heard and considered the testimony of the expert witness for the Applicant. He testified that the prior Resolution of approval provided for this condominium development to be constructed in two phases. The first phase has been completed and the second phase on the eastern portion of the property has now been undertaken and is in progress.
2. In constructing building 13, a surveying error was uncovered which resulted from a shift of the building location so that the corner of building 13 nearest to Old Short Hills Road encroaches within the minimum 40 foot setback imposed by Township Ordinance 170-102E(2)(a). Accordingly, the Applicant requests a variance of 3.67 feet in that the building is set back only 36.33 feet.
3. The proposed change will not be visible to the public since the building is set behind a screen wall and landscaping. There would be no impact on any surrounding properties and there is no other proposed change in the previously approved Resolution. There will be no increase in the size or number of the

condominium units. Similarly, there will be no decrease in the location or number of parking spaces.

4. The Applicant expert, Michael Lanzafama, testified that the statutory criteria of N.J.S.:40-55D-70C2 are met in that there will be no detriment to the public good, no impact on light and air, or interference with the use and enjoyment of the surrounding properties, and that the visibility of the building will appear no different than what was previously approved. There would be no impairment of the intent and purpose of the Zone Plan and Zoning Ordinance and the encroachment requiring the variance constitutes only 21.6 square feet in area which is a de- minimis violation in view of the overall size of the project.

#### **CONCLUSIONS OF THE BOARD**

1. The Board concludes that the Application for a modification to the Resolution adopted in this matter on December 15, 2003 for a setback variance be and is hereby granted with the conditions as set forth hereinafter.
2. The Board grants the variances requested by the Applicant for a 3.67 foot setback variance from the provisions of Township Ordinance Section 170-102E(2)(a) which requires a minimum setback of 40 feet in the R-5C Zone, whereas 36.33 setback is proposed.
3. The Board finds the variance will not impair the intent and purpose of the Zone Plan and Zoning Ordinance and will not have any substantial detriment to the public good and that the benefits of the approval will substantially outweigh any detriment.

4. The remaining provisions of the prior Resolution adopted by the Board shall remain in full force and effect, except as modified herein.

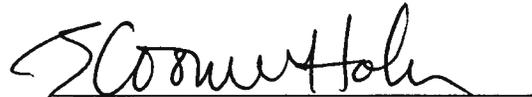
NOW THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston and consistent with the proofs and testimony presented at the hearing it resolved that the Board does hereby approve and grant the application for modification to the Resolution adopted in this matter on December 16, 2003.



---

Bob Leopold, Acting Chair

This Resolution is a memorialization of the decision of the Livingston Planning Board decided on May 5, 2015 wherein Board Members Santola, Anthony, Alvarez (for absent Member Klein), Leopold, Meade, and Wishnew (for absent Member Dinar) voted in accordance with the terms and findings set forth herein. The remaining Members of the Board were not present, or having recused themselves from hearing this matter, or being otherwise absent.



---

Jackie Coombs Hollis, Secretary