

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

Case # 2014-80-V

Motion by: Mr. Hochberg

Second by: Mr. Vieira

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 January 27, 2015, the following findings of fact and conclusions are made:

1. The applicant is Mr. & Mrs. Ari Strulson.
2. The applicant was represented by Stephen Geffner, Esq.
3. The property is commonly known as 46 Stonewall Drive and is taxed as Block 401, Lot 16. The property is in the R-2 Zone.
4. 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.
5. The applicant proposes to construct a sports court as an addition to a single-family residence.
6. Violations of Livingston Zoning Ordinances:
 - (a) Section 170-87(1)(b) Distance Between Structures – 10’ required, 5.4’ proposed; 5.6’ variance requested
 - (b) Section 170-72C(5)(c) Retaining Wall Setback from Property Line – 5’ required, 0’ proposed; 5’ variance requested
 - (c) Section 170-91B(a) & (b) Retaining Wall Maximum Height – 10’ allowed, 15.38’ proposed; 5.38’ variance requested
 - (d) Section 170-91B(16) Retaining Wall greater than 60’ inches requires fence protection. This variance was withdrawn as the fence has been installed.
7. The following persons testified at the hearing: The Applicant and Michael Lanzafama, PE, PP. Mr. Lanzafama testified as to the topographical conditions that required locating the court where proposed and the need for the multiple retaining walls, including the one on the property line due to steep slopes at the property.
8. The following persons objected to or expressed interest the application at the hearing: None

9. The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (c)(1) for the relief sought due to the steep slopes of the lot which posed topographical hardship related to the land justifying the variance. The Board determined that the violation of the required ten foot distance should not apply in this case and justifies a variance as the sports court was not the type of structure that was intended by the Ordinance.

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:

A distance between structures setback variance of four and six-tenths feet (4.6');
A retaining wall setback variance from property line variance of five (5') feet;
A retaining wall maximum height variance of five and thirty-eight one-hundredths feet (5.38') are granted;

The Board noted that the variance with respect to the retaining wall setback did not authorize any encroachment by the wall onto the neighboring property but just the right of the applicant to construct the wall on the property line without any setback.

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 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 January 27, 2015 in which Board voted to six 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.

CHAIRMAN:



JAMES HOCHBERG

Dated: February 24, 2015

Prepared by: Herbert S. Ford, Esq.