

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

Case #2015-27-V

Motion to approve by: Mr. Hochberg

Second to approve 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 June 23, 2015, the following findings of fact and conclusions are made:

1. The Applicant is Randal and Shira Rothschild.
2. The property is commonly known as 18 Camelot Drive, Livingston, New Jersey and is taxed as Block 6502, Lot 7. The property is in the R-1 Zone.
3. The Applicant was represented by Sean Monahan, Esq., of Schenk Price.
4. The Applicant has satisfied the statutory criteria and procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrears.
5. The Applicant proposed to construct an accessory structure to serve as a pool cabana in the rear yard of the property on which is located a single family residence.
6. The proposed Application would violate the following provisions of the Livingston Zoning Ordinances:
 - (a) Section 170-87E(1)(b) Setback between structures – 6 Feet required, 0 proposed; 6 Foot variance requested.
 - (b) Section 170-87E(1)(a) Accessory structure height – 13 Feet allowed, 16.75 feet proposed; 3.75 foot variance is requested.
 - (c) Section 170-87BB(1) Habitable floor area – 6200 square feet allowed, 7513 feet proposed; 1313 square foot variance is requested.
 - (d) Section 170-87CC(1) Habitable floor area ratio – 15% allowed, 15.26% proposed, .26% variance is requested.

7. Testifying on behalf of the Applicant at the hearing were: (a) John James, admitted as an expert in architecture; and (b) Richard Keller, of Casey & Keller, admitted as an expert in engineering and planning.
8. The following person appeared to testify in support of the Application: Michael Silverman, an adjoining property owner. No members of the public appeared to testify in opposition to the Application.
9. The Applicant has satisfied the statutory criteria of N.J.S.A. 40:55D-70(d)(4) for the relief sought as to the floor area ratio by demonstrating that the property consists of an oversized lot so that the property can accommodate the proposed habitable floor area. The existing residence already exceeds the floor area ratio and the proposed pool cabana will add an additional 448 square feet. The resulting floor area ratio of 15.26% results in a de minimus violation, particularly since the proposed cabana/pool house will be partly opened and the property is screened by substantial vegetation and landscaping so that it is not visible either from the street or from the adjoining property owners, as confirmed by neighbor Silverman who appeared on their behalf. The height of the structure is due primarily to architectural features consisting of the use of gable roofing to match the architecture of the main house and will be an esthetic enhancement to the property. The setback between the pool house and the existing fencing around the tennis court of 0 feet will not be violative of the intent and purpose of the Zone Plan or Zoning Ordinance in that it permits placement of the pool house at an adequate distance from the pool where the setback is of greater significance. Accordingly, the setback variance and height variance satisfy the criteria of N.J.S.A. 40:55D-70(c)(2) as it will have a better zoning result than compliance with the Ordinance.

Based upon the above findings there will be no detriment to the public good, nor will there be an impairment of the Zone Plan or 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 and approved subject to the following variances from the Township Ordinances:

- a) 6 foot setback between structures (between pool house and tennis fencing) is granted from the provisions of Section 170-87E(1)(b).
- b) The variance from the provisions of Section 170-87E(1)(a) to allow a 3.75 foot height variance for the pool cabana is granted.
- c) The variance from the provisions of Section 170-87BB(1) to allow a habitable floor area variance of 1313 square feet is granted.
- d) The variance from the provisions of Section 170-87CC(1) allowing a habitable floor area ratio variance of .26% is granted.

This approval is subject to all other requirements of the Township Ordinances, building codes, and the right of appeal by any interested party. As required by Livingston Ordinance 170-27(A) construction must be commenced within one (1) year of the date hereof or the variances shall expire.

Copies of the Applicant's survey showing the proposed improvements and architectural plans are attached hereto as an exhibit indicating the final version thereof.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on June 23, 2015 in which the Board voted unanimously to approve the Application in accordance with and subject to the terms and conditions set forth herein and on the record.

CHAIRMAN:



JAMES HOCHBERG

Dated: July 28, 2015

Prepared by: Richard W. Vallario, Esq.