

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

Case #2015-29-V  
Motion to approve by: Mr. Gillman  
Second to approve by: Mr. Nardone

**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 5 Ross Road, LLC.
2. The property is commonly known as 5 Ross Road, Livingston, New Jersey and is taxed as Block 7200, Lot 10. The property is in the R-1 Zone.
3. 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.
4. The Applicant proposes to add an addition to a single family residence.
5. The proposed Application would violate the following provisions of the Livingston Zoning Ordinances:
  - (a) Section 170-96C(4) Rear Yard Setback – 75 Feet required, 24.2 proposed; 50.8 Foot variance requested.
  - (b) Section 170-87CC(1) Habitable floor area ratio – 15% allowed, 20.186% proposed, 5.186% variance requested.
6. Testifying on behalf of the Applicant at the hearing were: (a) Marilyn Greenberg, Principal of the LLC; and (b) Daniel Dubinett, admitted as an expert in architecture who designed the Plans for the subject Application.
7. The following person appeared in objection to the Application: Tom Hildner, 10 Exeter Road, Short Hills, New Jersey, an adjoining property owner.
8. The Applicant has satisfied the statutory criteria of N.J.S.A. 40:55D-70(d)(4) for the relief sought by demonstrating that the residence will fit within the streetscape and the

property can accommodate the proposed addition to the residence. The residence is a permitted use and the Applicant proposes to add a second story and first floor addition which will increase the existing square footage of the house from the existing 1993 square feet to 5670 square feet. While requiring a floor area ratio variance, the overall floor area would be permitted within the Zone. The Applicant has presented proof that the subject property is triangular and irregular in shape and is bordered to the rear by vacant property owned but not used by an adjoining religious facility which is heavily wooded so that there is no view of the rear of the property from that location. The Board determined that the rear yard variance can be granted under N.J.S.A. 40:55D-70(c)(1) because of the unusual shape of the property and because the shape of the rear property with a bump out portion creates a shallow area which would require a variance for any improvements. The majority of the proposed improvements are above the existing structure. All side yard setback requirements are met.

9. Based upon the above findings there would be no detriment to the public good nor will there be an impairment of the Zone Plan or Zoning Ordinance and the benefits of the variance will outweigh any potential detriment.

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) The rear yard setback variance of 50.8 from the provisions of Code Section 170-96C(4) is granted.
- b) The habitable floor area ratio variance of 5.186% from the provisions of Code Section 170-87CC(1) is granted.

This approval is subject to the following terms and conditions:

A: The Applicant shall present a revised survey confirming that the shape of the property is triangular and irregular as testified to on the record, the Board having found that the submitted survey prepared by Michael L. Richey, L.S. under date of January 5, 2015 is not determinative as

to the actual shape of the lot. Said survey shall be provided to the Board prior to the final action on this Resolution; and

B: The Applicant shall plant additional landscaping to screen a view of its property from that of the adjoining property of 10 Exeter Road, Short Hills, New Jersey. The Applicant will plant no fewer than 5 Leland Cypress trees which will be 8 to 10 feet in height at planting. The Applicant shall maintain said trees in good condition and replace them in the event that they should die.

This approval is further 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 amended 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:

  
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JAMES HOCHBERG

Dated: July 28, 2015

Prepared by: Richard W. Vallario, Esq.