

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

Case #2015-35-V  
Motion to approve by: Mr. Vieira  
Second to approve by: Ms. Fass

**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 July 28, 2015, the following findings of fact and conclusions are made:

1. The Applicants are **ROBYN & DAVID ABRAMOWITZ**.
2. The property is commonly known as **22 Lexington Drive**, Livingston, New Jersey and is taxed as Block 4704, Lot 24. The property is in the R-4 Zone.
3. The Applicants have 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 a new front porch and a two story rear addition to an existing single family residence. An existing free standing storage shed was constructed in violation of Code setback requirements, and approval is requested to permit the shed to remain where it is currently located
5. The proposed Application would violate the following provisions of the Livingston Zoning Ordinances:
  - (a) Section 170-99C(3) Side Yard Setback – 10 feet required, 7 feet proposed; 3 foot variance requested.
  - (b) Section 170-87E(1)(d)(4) Accessory Structure Side Yard Setback - 5 feet required, 4.55 feet proposed: 0.45 foot variance requested.
  - (c) Section 170-87E(1)(d)(4) Accessory Structure Rear Yard Setback - 5 feet required, 2.83 feet proposed: 2.17 foot variance requested.
6. Testifying on behalf of the Applicants were David & Robyn Abramowitz
7. A neighbor, Geng Ma appeared and indicated that upon learning of the facts of the application, he had no objection. No members of the public appeared either in opposition to the application.
8. The Applicant has satisfied the statutory criteria of N.J.S.A. 40:55D-70c(1) for the relief sought by demonstrating that the existing residence has a pre-existing non-conforming violation of the front yard setback requirements. The proposed addition will be completely within the existing footprint of the home and will not increase the encroachment. The Applicant has presented proof that the subject property presents a hardship for any addition because of the shallowness of the property, and location of the house within the side yard setback. The Board determined that the side yard variance can be granted under

N.J.S.A. 40:55D-70(c)(1) because of the non conforming location of the existing home, the addition will not increase the setback violation,. The accessory structure side yard and rear yard variance application meets the criteria of n.j.s.a. 40:55d-70c(2) because the shed is existing, is within a fenced yard, and its location preserves more usable rear yard space for the occupants. The approval of the application will not have a negative impact on the neighborhood, and will be an aesthetic enhancement. 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 variances 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 side yard setback variance of 3 feet from the provisions of Code Section 170-99C(3) is granted.
- b) The accessory structure side yard variance of 0.45 feet from the provisions of Section 170-87E(1)(d)(4) is granted, subject to the condition that upon removal or replacement of the shed, any new or replacement shall be made compliant with the Township Code.
- c) The accessory structure rear yard variance of 2.17 feet from the provisions of Section 170-87E(1)(d)(4) is granted, subject to the condition that upon removal or replacement of the shed, any new or replacement shall be made compliant with the Township Code.

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.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on July 28, 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: August 25, 2015

Prepared by: Richard W. Vallario, Esq.