

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

Case # 2011-24-V

Motion by: Mr. Ozarow

Second by: Mr. Silverman

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 September 27, 2011, the following findings of fact and conclusions are made:

1. The applicant is Anthony and Lynne Cilenti.
2. The property is commonly known as 2 Darby Terrace and is taxed as Block 5103 Lot 1. The property is in the R-3 Zone.
3. The applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrearages.
4. The applicant proposes to replace a six foot fence next to a single family residence on the property.
5. Violation of Livingston Zoning Ordinance
 - (a) 170-91B(2)(b) Front Yard Fence (48' maximum height, 50% open required, 72' proposed; and 100% closed requested)
 - (b) 170-91B(3)(c) Side Yard Fence facing public right of way (48' maximum height, 50% open required, 72' proposed; and 100% closed requested)
 - (c) 170-91B(7) Setback for fence facing street or public right of way (3' required, 0' proposed, 3' variance requested)
 - (d) 170-91B(5) Evergreen plantings in front of fence facing street or public right of way. Variance requested for plantings
6. The following persons testified at the hearing: The applicant.
7. The following persons objected to or expressed interest in the application at the hearing: Mr. Cary Meadow, 332 Hillside Avenue about the dog of the applicant and Tracy Amartez 27 Woodlawn Terrace about her view of the rear yard from across the street. Both persons supported the applicant's requests.
8. The applicant testified that the school children could be injured by his dog if the fence were 50% open and a 48' inch fence did not provide the security that the applicant required for his children.

9. The applicant has not satisfied the statutory requirements of N.J.S.A. 49:55D-70 (c)(1) for the relief sought by demonstrating that an undue or exceptional hardship would be imposed upon the applicant by a denial. The applicant failed to meet the statutory requirements for the variances requested which would be a topographical or other feature of the land or the location of the residence that would justify the application.

Now, therefore, be it **RESOLVED** by the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston that the application herein submitted is denied.

The Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on September 27, 2011 in which Board voted to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



ALAN OZAROW

Dated: October 25, 2011

Prepared by: Herbert S. Ford, Esq.