

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

Case #ZB-2011-25-V

Motion to approve by: Mr. Hochberg

Second to approve by: Mr. Shah

Re: Application No. 2011-25-V
Applicant: Robert and Darby Rabinowitz
Premises: 21 Mayhew Drive
Livingston, New Jersey
Block 1307, Lot 29
Zone: R-2

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the Application and plans filed in this matter, and having heard the testimony and evidence presented at the hearing on July 26, 2011, the following findings of fact and conclusions are made:

1. The Applicants are Robert and Darby Rabinowitz, the owners of the subject property.
2. The property is commonly known as 21 Mayhew Drive, Livingston, New Jersey and is taxed as Block 1307 Lot 29. The property is in the R-2 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 Applicants propose to construct a two-story addition to an existing single family residence which addition would increase the total size of the home from 4,870 square feet existing to 5,810 square feet proposed. The R-2 zone permits a maximum habitable floor area of 4,870 square feet.

5. The Applicants had previously submitted an Application to the Board seeking a larger addition than currently proposed. The prior Application which requested an increase in the size of the home to 6,558 square feet was denied by Resolution of the Board adopted on January 25, 2011.

6. The proposed Application is in violation of Livingston Zoning Ordinances as follows:
 - A: 170-97C(2): Front yard setback: 60 feet required, 54.5 feet proposed, 5.5 foot variance requested;

 - B: 170-87AA(2): Habitable floor area: 4,870 square feet allowed, 5,810 square feet proposed, 940 square foot variance requested;

 - C: 170-87BB(2): Habitable floor area ratio: 18% allowed, 23.2% proposed, 5.2% variance is requested;

7. Testifying at the hearing was the Applicant, Darby Rabinowitz. Also testifying on behalf of the Applicant was Diana Hoffman, admitted as an expert in architecture, and Michael Lanzafama, of Casey & Keller, admitted as an expert in engineering and planning.

8. The testimony of the Applicant and its witnesses established that the proposed new Application was sufficiently different from the prior Application so that the Application is not barred by principles of Res judicata or collateral estoppel. The Applicant has reduced the size of the proposed expansion, increased the front yard setback, reduced the height of the building, and reduced the depth of the proposed second floor structure. Additional landscaping has already been added along the rear property line to provide better screening. The garage will be continued as existing and is not being expanded.

9. Michael Lanzafama, as a planner, testified that the proposed addition would be in character with other homes on Mayhew Drive. The massive look of the structure proposed under the prior Application has been substantially reduced so that it will fit in with the neighborhood. There will be no negative impact on the surrounding area and the proposed addition would be an improvement over the existing home and will meet the esthetic objectives of the Municipal Land Use Law. There would be no substantial detriment to the public good and the intent and purpose of the Zone Plan and Master Plan will not have any negative impact. The addition to the home will not overburden the property.
10. The testimony of the public in attendance (Margie Karpas, Ellen Duran, John Friedman, Debbie Schneider, Rachel Ginsberg, and Neil Goldstein) indicated that the neighbors have had their concerns over drainage issues taken care of by the applicants. Drainage improvements have been performed on the property and additional screening has been provided by new plantings, and the smaller sized proposed addition will result in an improvement to the neighborhood.
11. The Board finds that the Applicant has met the statutory requirements with respect to the variances sought. The Board finds that the proposed addition will fit within the character of the neighborhood, and will be compatible with the surrounding homes. The Applicant has satisfied the statutory criteria of NJSA49:55D-70(c)(2) with respect to the variances requested, and a grant of the variances will not be detrimental to the Zone Plan, Zoning Ordinance or Master Plan. There will be no detriment to the public good and any detriment from the addition will be outweighed by any benefits.

This Resolution is a memorialization of the action of the Zoning Board of Adjustment of the Township of Livingston taken on July 26, 2011 in which the Board voted

unanimously to approve the Application for the variances requested herein. This action is in accordance with and subject to the following conditions:

A: The Applicant will submit a lot surface drainage plan for approval by the Township Engineer and will comply with any requirements necessary for such approval.

B: The Applicant will provide sump pump discharge data as required by the Township Engineer.

This a memorialization of the decision of the Board of Adjustment of the Township of Livingston wherein Board Members Hochberg, Shah, Boni, Atteridge, Gillman, Wishnew and Ozorow voted on July 26, 2011 to approve the Application subject to the terms and conditions set forth herein.

CHAIRMAN:



ALAN OZAROW

Dated:

Prepared by: Richard W. Vallario, Esq.