

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

Case # 2011-40-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 November 17, 2011, January 24, 2012 and March 27, 2012, the following findings of fact and conclusions are made:

1. The applicant is John Graham.
2. The property is commonly known as 6 Stratford Drive and is taxed as Block 6601 Lot 8. The property is in the R-1 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 has installed a six foot white vinyl fence in the side yard to a single family residence on the property which fronts on a street that does not comply with the Ordinance.
5. Violation of Livingston Zoning Ordinance
 - (a) Section 170-91B(3)(c) Side Yard Fence facing public right of way (48' maximum height, 50% open required, 72' proposed; and 100% closed requested)
 - (b) Section 170-91B(5) Evergreen plantings in front of fence facing street or public right of way. Variance requested for plantings. This request was waived at the hearing by the applicant.
6. The applicant was represented by Gregory Mascera, Esq.
7. The following persons testified at the hearing: The applicant, Jason Kasler, PP and Brian Conway, a landscape architect.
8. The following persons objected to or expressed interest in the application at the hearing: none.
9. The applicant agreed to move the fence currently installed on or about the property line adjacent to Iroquois Drive back a distance of twenty feet from the property line or five feet from the 25 foot setback line on his most recent survey revised January 30, 2012. This location was chosen as it would not disturb the roots of a very large and old tree located about 5

feet from the property line. During the hearing the applicant withdrew his request a variance from the plantings and agreed to install evergreen plantings which on planting would be from 4.5 to 5 feet in height to buffer the fence in accordance with a landscaping plan provided by his landscape architect.

The applicant has 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 due to the pool on his property and due to his agreement to buffer the fence from view by plantings.

Now, therefore, be it **RESOLVED** by the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston that the application herein submitted is granted except with respect to the plantings which will be a condition of the variances.

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

Copies of the Applicant's survey showing the proposed improvements are attached hereto as an exhibit to indicate the final version thereof.

The Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on March 27, 2012 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: April 24, 2012

Prepared by: Herbert S. Ford, Esq.