

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

Case # 2012-1-V

Motion by: Mr. Hochberg

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 February 28, 2012, the following findings of fact and conclusions are made:

1. The applicant is Arabinda Dey.
2. The property is commonly known as 10 Country Club Court and is taxed as Block 5900 Lot 5. 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 applicant proposes to construct a pool in the rear of a single family residence on the property.
5. Violation of Livingston Zoning Ordinance
 - (a) Section 170-96A(8)(f) Swimming Pool Rear Yard Setback (20' required, 16' proposed, 4' variance requested)
 - (b) Section 170-96A(8)(e) Swimming Pool Fence (fence required; variance requested for no fence)
 - (c) Section 170-87E(1)(d)(2) Accessory Structure Side Yard Setback (10' required, .6' proposed, 9.4' variance requested)
 - (d) Section 170-87E(1)(d)(2) Accessory Structure Side Yard Setback (10' required, .8' proposed, 9.2' variance requested)
 - (e) Section 170-87E(1)(e) Accessory Structure Rear Yard Setback (10' required, 1.7' proposed, 8.3' variance requested)
 - (f) Section 170-87E(1)(e) Accessory Structure in Rear Yard Only (variance requested for a shed in the side yard)
6. The following persons testified at the hearing: The applicant and her husband.
7. The following persons objected to or expressed interest in the application at the hearing: Anthony and Joanna Andrea, 12 Country Club Court.
8. The applicant withdrew the fence variance agreeing to comply with the Ordinance requirements as to fences around swimming pools.

9. The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (c)(1) with respect to the rear yard setback for a pool and is entitled to the relief sought by demonstrating that an undue or exceptional hardship would be imposed upon the applicant by a denial due the unusual shape of the lot and because the rear of the lot is a PSE&G right of way without any residences nearby.

Based upon the above findings, there will be no detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance. Now, therefore, be it **RESOLVED** by the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston that the application herein submitted is granted the following variance from the Ordinance:

A four (4') foot rear yard setback for the proposed pool variance from Section 170-96A(8)(f).

The Board denied the applications for variances for accessory structures as there was no undue hardship demonstrated related to the property as the sheds could be relocated to comply with the ordinance.

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. All other permits required by the Ordinances must be obtained before a building permit will be issued.

Copies of the Applicant's survey showing the proposed improvements and architectural plans 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 February 28, 2012 in which Board voted seven in favor and none opposed to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



ALAN OZAROW

Dated: March 27, 2012

Prepared by: Herbert S. Ford, Esq.