

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

Case # 2011-63-V

Motion by: Mr. Shah

Second by: Mr. Klein

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 BCS Marketing Solutions, Inc.
2. The property is commonly known as 45 East Drive and is taxed as Block 5201 Lot 2. 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 construct an addition to a single family residence on the property.
5. Violation of Livingston Zoning Ordinance
 - (a) Section 170-98C(2) Front Yard Setback (50' required, 49.1' proposed, .9' variance requested)
 - (b) Section 170-98C(4) Rear Yard Setback (40' required, 12.3' proposed, 27.7' variance requested)
6. The applicant was represented by Stephen A. Geffner, Esq. of Schenk, Price & King, LLP.
7. The following persons testified at the hearing: The applicant, Steve Shapiro, and Catherine Flores, AIA.
8. The following persons objected to or expressed interest in the application at the hearing: None
9. Ms. Flores presented pictures of the property and a rendering of the proposed residence marked A-1, A-2 and A-3.
10. 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 the unusual shape of the lot which due to the

Ordinance requires a side line to be considered a rear line; however, the neighbor's side yard is not next to that line, but it is the neighbor's rear yard. The Board determined the front yard variance was de minimis.

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 front yard variance of 0.9 feet, and
- A side yard variance of 27.7 feet.

The applicant agreed to preserve the current trees by the rear line or plant new trees to help buffer the rear yard intrusion.

Mr. Ozarow recused himself from this matter and left the chambers during the hearing.

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 five in favor and two 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.