

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

Application #: 2016-55-V  
Decided: June 27, 2017  
Memorialized: July 25, 2017

Motions: Mr. Resnick  
Second: Mr. Bier & Mr.  
Dunec

**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 June 27, 2017, the following findings of fact and conclusions are made:

1. The Applicant is: Maddabella Investors LLC.
2. The Property is commonly known as 11 Forest Street and is taxed as Block 7500, Lot 31. 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 arrears.
4. The Applicant proposes an addition and remodeling of an existing single-family residence. Violations of the following Livingston Zoning Ordinances were noted:
  - (a) Section 170-96C (2) - Front Yard Setback - 75 feet required, 25.7 feet proposed; a 49.3-foot variance requested.
  - (b) Section 170-96C (3) Side Yard Setback - 15 feet required; 2.5 feet proposed; a 12.5-foot variance requested.
  - (c) Section 170-96C (3) Side Yard Setback - 15 feet required; 10 feet proposed; a 5-foot variance requested.
  - (d) Section 170-96C (3) Side Yard Aggregate Setback - 30%t required; 4.7 feet proposed; a 25.3% variance requested.
  - (e) Section 170-87CC (1) - Habitable Floor Area Ratio - 15% allowed, 25.27% proposed; a 10.27% variance is requested.
5. 170-3 Garage Size - 12-foot width required; 11.8-foot width proposed; 20-foot length required; 18.25-foot length proposed; .2-feet width and 2.5-feet length variances are requested.
6. The Applicant was represented by Peter Cooke, Esq. of Millburn, NJ.
7. The following persons testified at the hearing: The Applicant, by Mark Teitelbaum, a member of the LLC; John McDonough, a professional planner; Peter Korzen, a professional engineer and land surveyor, and James Cutillo, an architect on behalf of the Applicant. The Board heard testimony, and considered the plans submitted in conjunction with the application.

8. The following persons objected to, or expressed interest in, the application at the hearing: None.

9. At the Applicant's request, the application was considered in a bifurcated manner. The use variance (habitable floor area ratio) was considered separately from the remaining variances that were bulk variances.

10. The Board considered the use (FAR) variance first. The Board found that the Applicant satisfied the statutory requirements of N.J.S.A. 40:55D-70(d)(4) for the relief sought by demonstrating special reasons under the Municipal Land Use Law (MLUL). The Board found that the site of the Application was in need of redevelopment. The Board found that the Application furthered two purposes of the MLUL listed in N.J.S.A. 40:55D-2: (a) "To encourage municipal action to guide the appropriate use or development of all lands in the State to promote the public health, safety, morals and general welfare"; and (i) "To promote a desirable visual environment through creative development techniques and good civic design and arrangements." The Board found that the lot can accommodate the size of the proposed structure, and that the design of the proposed structure will fit in with the neighborhood. The Board found that by granting the FAR variance, there would be no substantial detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance.

11. It was **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) A Habitable Floor Area Ratio variance of 10.27% is granted.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on June 27, 2017 in which Board voted six in favor and none opposed to approve the application.

12. The Board then considered the bulk variances that were requested. The Board found that the Applicant faced a hardship due to an undersized, narrow lot. The Board also found that the Application could result in an improvement to the neighborhood. Members of the Board, however, felt that the front yard setback variance would cause substantial detriment to the public good and would impair Livingston's master plan and zoning ordinance. Accordingly, it was Resolved that the Application be denied.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on June 27, 2017 in which Board voted three in favor and three opposed resulting in a denial of the application.

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.

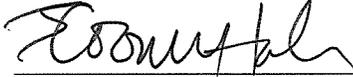
CHAIRMAN:

  
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JAMES HOCHBERG

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Livingston on June 27, 2017.

- a) The Resolution granting the variance for Habitable Floor Area Ratio was adopted by the affirmative votes of Mr. Hochberg, Mr. Vieira, Mr. Bier, Ms. Tabak-Fass, Mr. Resnick and Mr. Dunec, being all the Members present and eligible to vote.
- b) A Resolution to grant five setback variances was made but failed to pass. The motion to grant the variances was made by Mr. Resnick and seconded by Mr. Dunec. In addition to Mr. Resnick and Mr. Dunec, Mr. Vieira voted in favor of the Resolution. Ms. Fass, Mr. Bier and Mr. Hochberg voted against the Resolution citing the front yard setback. The Resolution failed to achieve a majority vote, and was accordingly, denied.

PLANNING ADMINISTRATOR:

  
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JACKIE COOMBS-HOLLIS

Prepared by: Alan Ozarow, Esq.