

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

Case # 2014-83-V

Motion by: Mr. Hochberg

Second by: Mr. Shah

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 December 9, 2014, the following findings of fact and conclusions are made:

1. The applicant is Everas Communtly Services, Inc.
2. The property is commonly known as 22 Park Drive and is taxed as Block 4501, Lot 7. The property is in the R-4 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 to convert a garage into a bedroom to a single-family residence used as a group home for developmentally disabled persons.
5. Violations of Livingston Zoning Ordinances that requires every single family residence to have at least one attached or detached garage;
6. The applicant was represented by Susan Rubright, Esq., of the firm of Brach Eichler.
7. The following persons testified at the hearing: The Applicant's President, Vicky Calabro and A. Kollar, AIA.
8. The following persons objected to or expressed interest the application at the hearing: Judy Robinson of 27 Park Dive and Jeffrey Joachim of 28 Park Drive.
9. The Applicant's President testified that the applicant was a not for profit funded by the State of New Jersey to provide residences for developmentally disabled persons. Currently there were five resident clients, one of which was 85 years old and only three bedrooms. The goal here was to create a fourth bedroom to provide some additional privacy for the resident clients. Further, upon the demise of the next resident client, the residence would have only four resident clients each of whom would have their own bedroom. Also she testified that none of the resident clients drove and the garage was used for storage. Further the applicant

agreed if it ever sold the residence, that the garage would be restored. She also testified that the applicant planned to upgrade the property by repainting it and adding landscaping.

10. The Applicant's architect testified that due to the size and unusual configuration of the lot there was no place to add additional bedrooms and therefore conversion of the garage was the only alternative. There was also no place to locate a detached garage nor no need for a garage.

11. The public had an opportunity to ask questions of both witnesses and inform them that the professional staff sometimes was impolite making noise with horns at late hours and that the property needed an upgrade physically to conform to neighborhood standards. The applicant acknowledged that it would upgrade the property with landscaping and paint and would instruct its staff to be more courteous to the neighbors.

12. While the Board recognized that the matter had been determined to be a "use" variance since the use of a bedroom was already permitted in the zone it could use the Coventry Square standard whether there was any adverse impact such use under these circumstances. The Board found no adverse impact to having the garage converted to a bedroom in these circumstances. Further, due to the agreement to restore and respect for the valuable services provided by the applicant, the Board expressed that this was both inherently beneficial and that a C-2 variance would apply as this use was a better zoning result than the imposition of the requirements of the ordinance.

13. The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (d)(1) as expressed above and (c)(2) for the relief sought by demonstrating that there is a hardship due to the small size and configuration of the lot.

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 variance of from the requirement that each residence have a garage is granted;

The condition imposed by the Board is that the applicant record a deed attaching this Resolution on the land records to give notice of the obligation to restore the garage upon the sale of the residence for use as a single family residence or if the applicant or its successor is no longer using the residence as a group home for disabled persons. Such deed shall be prepared by counsel for the applicant within 60 days of the adoption of this Resolution for the review by counsel for the Board and promptly recorded thereafter. A copy of the recorded deed shall be provided to the Board for its records and to counsel for the Board.

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 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 December 9, 2014 in which Board voted to five 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:



JAMES HOCHBERG

Dated: January 27, 2015

Prepared by: Herbert S. Ford, Esq.