

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

Case # 2013-3-V

Motion by: Mr. James Hochberg

Second by: Mr. Alan Ozarow

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 March 12, 2013, the following findings of fact and conclusions are made:

1. The applicant is Peter Chernov.
2. The property is commonly known as 35 Burgundy Drive and is taxed as Block 5800, Lot 7. 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 arrears.
4. The applicant proposes to construct a fence adjacent a single-family residence that has Eisenhower Parkway at the side yard.
5. Violations of Livingston Zoning Ordinances:
 - (a) Section 170-91B(2)(b) Fence Height (4' allowed, 6' proposed; 2' variance requested)
 - (b) Section 170-91B(2)(b) 50% Open Fence allowed, closed fence proposed/variance requested
 - (c) Section 170-91B(6)(a) Evergreen Plantings in front of fence required; no plantings proposed/variance requested
6. The following persons testified at the hearing: The applicant.
7. The following persons objected to or expressed interest the application at the hearing: none.
8. 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 because the lot is adjacent to Eisenhower Parkway where there is substantial traffic and noise that causes a hardship.

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 variances from the Ordinance:

Fence Height Variance of 2';
50% Open Fence Variance to permit a closed fence; and
No evergreen plantings Variance in front of fence are granted.

The Board imposed the following conditions on the grant of this application:

1. The fence when installed would be placed between the two lines of trees on the property;
2. The fence must be a wood fence of a dark or neutral color (and expressly not a white fence which would be very visible).

The applicant will have to provide evidence to the Building Department of compliance with the above conditions prior to issuance of a Fence Permit.

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 March 12, 2013 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 23, 2013

Prepared by: HERBERT S. FORD, ESQ.