

TOWNSHIP OF BERKELEY  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
AUGUST 25, 2010  
7:00 PM PUBLIC HEARING

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, and posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:
- F. AGENDA:

1. **LIBERTO** **BOA#10-5323**

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Variance(s) requested:           Bulk Variances  
Project:                            Inground Pool and 54" fence  
Block(s): 391                      Lot(s): 4.01  
Address: 416 Virginia Ave.       Zone: R-150

Denial Reads:    The Applicant proposes to install an inground pool on a corner lot leaving a 15 foot front yard setback where 35 feet is required. The Applicant is also proposing to install a 54" high fence between a public street and a building line where 48" is the maximum permitted.

2. **SMITH** **BOA#10-5322**  
**(RECEIVED QUEST TO CARRY TO 9/22/10)**

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Variance(s) requested:           Bulk Variances  
Project:                            Deck Addition  
Block(s): 1691.02                 Lot(s): 17  
Address: Sprague Ave.           Zone: R-31.5

Denial Reads:    The Applicant proposes to construct an attached deck in the front and side yards with a 14 foot front yard setback where 20 feet is required and leaving a 11.5 foot combined side yard setback where 15 feet is required.

3. **JERMAN** **BOA#09-5272 (Carried from 8/11/10)**  
**(RECEIVED QUEST TO CARRY TO 10/13/10)**

Variance(s) requested: Bulk Variances

Project: Single-family dwelling on an Undersized Lot

Block(s): 509 Lot(s): 11

Address: Roosevelt Ave. Zone: R-125

Denial Reads: Applicant proposes to construct a single-family dwelling on this 5,500 s.f. lot where 12,500 s.f. is required with a 50 foot lot frontage where 100 feet is required, 20 foot combined side yard setback where 25 feet is required, and a 24 foot rear yard setback where 30 feet is required.

**G.** RESOLUTIONS TO BE ADOPTED.

**H.** APPROVAL OF MEETING MINUTES.

**I.** ADJOURNMENT: Next meeting of the Board of Adjustment will be on September 8, 2010 at 7:00 PM



MEMO TO: Berkeley Township Zoning Board of Adjustment

FROM: Robert J. Russo, P.E., P.P., C.M.E.,  
 Office of the Zoning Board of Adjustment Engineer and Planner

DATE: August 3, 2010

RE: **Liberto Variance – Review #1**  
**Application: Construction of an Inground Pool and Fence**  
**Block: 391, Lot 4.01**  
**Fronting on: 416 Virginia Avenue**  
**Zoning District: R-150**  
**Plans: Survey – Prepared by Gravatt Consulting Group; dated April 14, 2006**  
**BOA#: 10-5323**  
**Our File No.: PBAZ0391.01/600.01**

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to the same:

**A. PROJECT OVERVIEW**

1. The denial states the applicant proposes to “install an inground pool on a corner lot leaving a 15’ front yard setback where 35’ is required”. The applicant is also proposing to install a 54” high fence between a public street and a building line where 48” is the maximum allowed. The applicant is proposing to install a 16’ +/- by 32’ +/- in-ground pool including a 54” high aluminum fence within the front yard of Farrow Drive where 48” maximum is allowed. The lot in question is located on the northern side of Virginia Avenue, west of its intersection with Western Blvd. The property is a corner lot with secondary frontage on Farrow Drive which is an unimproved right of way. The lot is located in the R-150 zone.
2. R-150 Zone Requirements and Variances Requested (as per Schedule I, Section 35-95)

| <u>Accessory Use</u>                        | <u>Required</u> | <u>Existing</u> | <u>Proposed</u> | <u>Variance Requested</u>           |
|---|-----------------|-----------------|-----------------|-------------------------------------|
| Side Yard Setback                           | 7 ft            | N/A             | 19 ft           | <input type="checkbox"/>            |
| Rear Yard Setback                           | 7 ft            | N/A             | 15 ft           | <input type="checkbox"/>            |
| Front Yard Setback (35 ft.)<br>Farrow Drive | Not Permitted   | N/A             | 15 ft           | <input checked="" type="checkbox"/> |

\* Pursuant to Section 35-89.7, no detached accessory use shall be located closer to the street line than the front building line of the principal structure and shall be governed by the schedule of requirements for the side and rear setback lines.

**B. GENERAL REVIEW COMMENTS**

1. The applicant should provide a description of the proposed pool. The applicant should also provide testimony to the board regarding the need to construct the pool with in the front yard setback of Farrow Drive.
2. Pursuant to Section 11-5.2(1) no person shall erect any fence between a public street and a building line to a height exceeding 48 inches. The applicant requires variance relief from this requirement since, as noted above, they are proposing to construct a 54” high aluminum





Memo to Berkeley Township Zoning Board  
Our File: PBAZ0391.01  
August 3, 2010  
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fence within the front yard of Farrow Drive, an unimproved right of way. The applicant should discuss the need for a 54" high fence as opposed to a 48" fence in the front yard, supporting the requested variance

3. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if :
- c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
  - c.(2) where in an application or appeal relating to a specific piece of property the purposes of this act...would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

It has to be determined whether the property in question meets any or all of the reasons established in the MLUL to permit the granting of the variance and whether the enforcement of the Berkeley Township General Ordinances will cause undue hardship to the property owner.

### C. MISCELLANEOUS

1. Should the Zoning Board of Adjustment grant the relief requested by the applicant, approval of this application should be conditioned upon the Applicant certifying to the following:
  - i. The proposed structures should not encroach into existing easements (i.e. shade tree, utility, drainage, etc) without proper consent from the Township and shall not encroach upon private wells or individual septic systems or disposal fields.
  - ii. The proposed grading if any, will not impact adjacent property and that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
  - iii. The fence should be located at least 6 inches from any property line to prevent potential property conflicts.
  - iv. Payment all outstanding professional review fees of the Board and the Township.
  - v. The applicant submitting for a grading permit in accordance with Section 11-1.5.

The right is reserved to present additional comments pending the receipt of revised plans and/or the testimony of the Applicant before the Board.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

RJR/rr  
cc: Board Attorney  
Donald Liberto – Applicant



**Bl# 391**

**Ch# 4.01**

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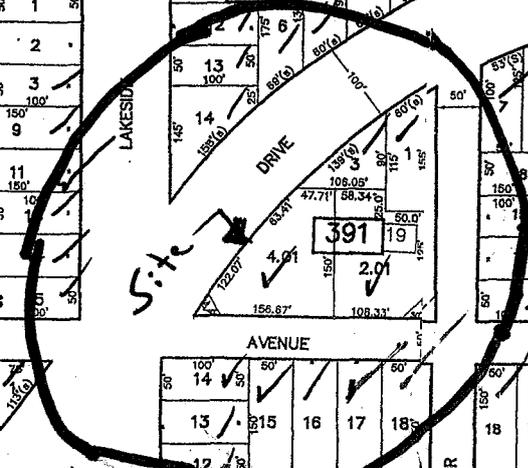
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(FORMERLY LIVINGSTON AVE.)

LIVINGSTON

SEABROOK

(FORMERLY LIVINGSTON AVE) NORTH

AVENUE

STREET

BOULEVARD

TAYLOR

| NUMBER | TOTAL |
|--------|-------|
|        |       |
|        |       |
|        |       |
|        |       |

BOULEY

WESTERN

BOULEVARD

