

Bulk Variance
Mistretta
1611 Edge Street
Block 832, Lot 14
Zone: R-7.5
Application No. BA-2794-4/12

RESOLUTION OF APPROVAL
BRICK TOWNSHIP ZONING BOARD OF ADJUSTMENT
APPLICATION NO. BA-2794-4/12
August 1, 2012

WHEREAS, Giovanni Mistretta (the "applicant"), having a mailing address of 1611 Edge Street, Brick, NJ 08724, has applied to the Brick Township Zoning Board of Adjustment (the "Board") for variance approval pursuant to N.J.S.A. 40:55D-70(c); and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on July 11, 2012, in the municipal building, at which time testimony and exhibits were presented on behalf of the applicant and all interested parties having been heard; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is designated as Block 832, Lot 14 on the municipal tax map.
2. The property is located in the R-7.5 zone.
3. Based upon the application submitted, any amendments or modifications thereto and the testimony of the applicant and applicant's witnesses, the following bulk variances have been requested:

<u>Item</u>	<u>Required</u>	<u>Provided</u>
Front setback from Harvard Street (fence)	12.5 ft.	3 ft.

File
Mistretta
Owen
Cantoli
Building
Zoning

4. Sean Kinnevy, Township Zoning Officer, prepared a report to the Board dated May 30, 2012. The Board adopts the findings in that report and incorporates that document in this resolution by reference.
5. Applicant proposes to construct a 6-foot high board on board fence setback 3 feet from the easterly property line which borders on Harvard Street. Mr. Mistretta testified that he wants to maximize the use of the property. In the future he proposes to construct an inground pool. He presently has triplets and he wants a secure play area for them.
6. The property is located at the corner of Edge Street and Harvard Street, thereby requiring two front yard setbacks. The Township does permit accessories uses such as fences to be setback the equivalent of half of the maximum front yard setback if the side yard also fronts on a street. In this case, the side yard of the subject property faces Harvard Street. Therefore, a fence is required to be setback 12.5 feet from the property line. Applicant, however, seeks a setback of 3 feet.
7. The Board expressed concern about the fence interfering with the lines of sight for cars backing out of both applicant's driveway and the driveway on Lot 7, adjacent to the subject property. Applicant indicated a willingness to provide a 45 degree angle for the fence by applicant's driveway and by the common boundary line between applicant's lot and Lot 7.
8. Dawn Snyder and Michael Thulen both commented favorably on the application.
9. The Board finds and determines:
 - a. Applicant proposes to construct a 6-foot high board on board fence setback 3 feet from the property line along Harvard Street.
 - b. The Township ordinance requires a setback of 12.5 feet.

- c. The proposed fence will conform with the Township's ordinance requiring a fence to be setback at least 10 feet from the edge of pavement.
- d. The positive criteria for a C variance is met by the fact that the property fronts on two streets. In addition, a tree located near the property line where the fence is proposed would interfere with the location of the fence.
- e. The adjoining property owner spoke in favor of the application.
- f. Based upon the testimony the proposed fence will not have a negative impact upon the neighborhood.
- g. The proposed fence will permit adequate air, light and open space for this site and neighboring properties.
- h. The development plan will not be detrimental to the public good and will not substantially impair the intent and purpose of the municipal zoning ordinance and master plan.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Zoning Board of Adjustment on this 1st day of August 2012, that the decision of the Board at its meeting of July 11, 2012 be memorialized, and that this application be approved subject to the following conditions:

- 1. Applicant shall comply with standard Zoning Board of Adjustment conditions as set forth in attached Schedule "A".
- 2. The last 8-foot section of fence nearest applicant's stone driveway shall be placed at a 45 degree angle and will connect with a fence that is proposed along a portion of that driveway. On the other end of the fence which runs along Harvard Street, the last 8-foot section of fence shall be placed at a 45 degree angle and will attach to the proposed fence along the south property line of applicant's property.

Case No. BA-2794 -4/12
Giovanni Mistretta

August 1, 2012

VOTE ON MEMORIALIZATION

MOVED BY: E. Mercer

SECONDED BY: M. Iannarone

VOTING IN THE AFFIRMATIVE; M. Iannarone, W. Chandler,
V. Chadwick, E. Mercer, D. Liberatore, L. Lau

VOTING IN THE NEGATIVE:

INELIGIBLE:

IN-CONFLICT:

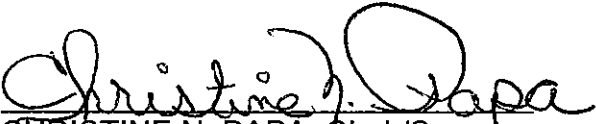
Absent: A. Marchetti,, J. Rentschler

ABSTAINING:

NOT VOTING : D. Raftery

CERTIFICATION

I, CHRISTINE N. PAPA, Clerk/Secretary to the Zoning Board of Adjustment of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that this resolution was adopted by the Zoning Board of Adjustment of the Township of Brick regular meeting held on the 1st day of August, 2012.


CHRISTINE N. PAPA, Clerk/Secretary
Brick Township Zoning Board of Adjustment

BRICK TOWNSHIP ZONING BOARD OF ADJUSTMENT

SCHEDULE "A"

1. Applicant shall provide the Board with documentation that all real property taxes have been paid through the calendar quarter of the date of the resolution of approval.
2. Applicant shall obtain signed documentation from the Code Enforcement Officer, Construction Official and Township Engineer certifying compliance with all terms and conditions of this resolution.
3. Applicant shall apply for and obtain all necessary permits and approvals from the Township Building Department prior to commencing any construction or renovation work.
4. No construction permit shall be issued by the Township until all application, escrow and professional fees ("required fees") have been paid to the Board, and confirmation has been obtained from the Board Secretary that the required fees have been paid. In the event a construction permit is issued when any fees remain due to the Board, the permit shall be automatically suspended, and all work shall cease and terminate until the required fees have been paid.
5. Applicant shall post, file or pay all required performance bonds, maintenance guaranties, engineering fees and inspection fees.
6. Applicant shall apply for and obtain approvals from all other municipal, county, state and federal agencies having regulatory jurisdiction over this application.
7. If applicant has asserted that the improvements referred to in this resolution are the subject of a permit by rule or waiver of the Department of Environmental Protection of the State of New Jersey ("NJDEP"), then applicant shall provide the Board with documentation demonstrating compliance with NJDEP rules and regulations.
8. In the event there is an existing violation of any municipal rule, regulation or ordinance, applicant shall have 30 days from the date of the resolution of approval to correct the violation. Failure to correct the violation within this time period shall constitute reasonable cause for the issuance of a summons and complaint to the applicant or other responsible parties.
9. All testimony, stipulations of the applicant, stipulations of the applicant's representatives, exhibits marked into evidence, and deliberations of the Board are incorporated in this resolution by reference, and to the extent that the foregoing impose additional or more detailed conditions of approval than those contained elsewhere in this resolution, such conditions of approval are adopted as if set forth at length herein and are incorporated in this resolution by reference.
10. This development approval shall be null and void unless Applicants obtain a construction permit from the municipality and commence work under the permit within two years from the date of this Resolution.
11. Applicant shall comply with all ordinances, rules, regulations, statutes and other provisions concerning the provision of Affordable Housing Units in the municipality and/or the payment of fees imposed by the Township or the State of New Jersey.