

BOARD OF ADJUSTMENT  
TOWNSHIP OF BERKELEY HEIGHTS

Case No. 16-18

REVISED RESOLUTION

*Fence confirmed  
w/in easement.  
Must be removed. K*

WHEREAS, ELLEN GURITZKY has applied to the Board of Adjustment of the Township of Berkeley Heights for permission to construct a 16 feet by 16 feet deck, 4½ feet tall, at the rear of her single family residence which is located at 15 Cromwell Court on property designated as Lot 13, Block 1602 on the Berkeley Heights Tax Map, which premises is located in the R-15 Zone, and

WHEREAS, the application was presented by Ellen Guritzky and Yoram Aflalo, a licensed contractor, at the September 27<sup>th</sup>, 2018 Board of Adjustment meeting, and

WHEREAS, the 11,848 square foot undersized lot is improved with a single family residence and a shed at a conforming location, and

WHEREAS, the subject property is shallow, with a lot depth of 111 feet, while the minimum lot depth in the R-15 Zone is 130 feet, and

WHEREAS, the applicant proposes to install a 16 feet by 16 feet deck 4½ feet tall at the rear of her home which would reduce the existing rear yard setback from 24 feet to 8½ feet, while the Zoning Ordinance requires a minimum rear yard setback of 40 feet in the R-15 Zone, and

WHEREAS, in the back of the subject property is land owned by the Township of Berkeley Heights, and in the back of that property is Lot 18 in Block 1602 (14 Brook Street) which is owned by Stephen and Elizabeth Wilpiszewski, who both appeared at the public hearing, and

WHEREAS, the Wilpiszewski's had no objection to the deck, but requested some trees to buffer the view, and

WHEREAS, at the conference meeting Board members suggested that the stairs be tucked under the deck, a portion of the survey was resubmitted with the stairs being tucked under the deck but without the existing shed being shown, and

WHEREAS, the applicant agreed to revise the plan, and

WHEREAS, the Board finds a hardship under N.J.S.A. 40:55D-70c on the basis of the small lot size and sub-standard lot depth, and

WHEREAS, based on the property owned by the Township of Berkeley Heights in back of the site, the Board finds that the requested relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Berkeley Heights.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Berkeley Heights on this 11<sup>th</sup> day of October 2018, that the application of ELLEN GURITZKY be approved, subject, however, to the following conditions:

1. There shall be no hot tub, jacuzzi, or the like on the deck.
2. There shall be no storage under the deck.
3. All lights on or serving the deck shall be shielded and shall not cause glare or sky glow on streets or other properties.
4. There is a question as to whether there is a wood fence within the storm sewer easement on the western side of the property. The survey, which

is dated June 1<sup>st</sup>, 2015, shows the fence on the easement although the testimony disclosed it was not on the easement. If a wood fence is in fact on the easement it shall be removed.

5. The applicant shall plant three (3) trees a minimum of 6 feet tall with the species recommended by Richard Leister, the Chairman of the Shade Tree and Environmental Commissions. The purpose of the trees is to buffer the deck from the Wilpizewski property. The trees are to be permanently maintained. Dead, diseased, and missing trees are to be replaced to the approval of the Zoning Officer.

6. A revised plan is to be filed with the Board of Adjustment Secretary showing the stairs removed, the existing shed, and the trees which were recommended by Richard Leister.

Roll Call Vote

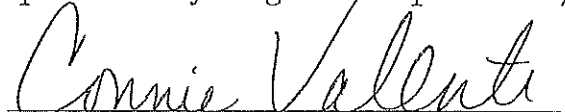
on 9/27/18: 7 - 0

Those in Favor: Mr. Sullivan, Mr. Siburn, Mr. Nappi, Mr. Delia,  
Mr. Mustacchi, Mr. Sylvester, and Mr. Ringwood

Those Opposed: None

The foregoing is a true copy of a resolution adopted by the Board of Adjustment of the Township of Berkeley Heights at its meeting on October 11, 2018 as copied from the minutes of said meeting.

The within resolution memorializes a motion which was adopted by the Board of Adjustment of the Township of Berkeley Heights on September 27, 2018.

  
CONNIE VALENTI, SECRETARY  
BOARD OF ADJUSTMENT  
TOWNSHIP OF BERKELEY HEIGHTS  
STATE OF NEW JERSEY