

BOARD OF ADJUSTMENT
TOWNSHIP OF BERKELEY HEIGHTS

Case No. 22-17

RESOLUTION

WHEREAS, LEO ROTSHEYN has applied to the Board of Adjustment of the Township of Berkeley Heights for permission to add a three-season room to the back of his home which is located at 116 Washington Street on property designated as Lot 15, Block 105 on the Berkeley Heights Tax Map, which premises is located in the R-10 Zone, and

WHEREAS, the application was presented by Leo Rotsheyn and his contractor Mark Swanson at the November 9th, 2017 Board of Adjustment meeting, and

WHEREAS, located in back of the applicant's home is a 14 foot by 20 foot paver patio, and

WHEREAS, the applicant proposes to construct a 13 foot by 20 foot three-season room, and

WHEREAS, the construction of the three-season room will not impact the existing total coverage of 33.67%, where a maximum of 30% is allowed in the R-10 Zone, but will reduce accessory coverage or other coverage from 15.73% to 12.27%, where a maximum of 10% is allowed, and increase building coverage from 17.93% to 21.40%, where a maximum of 20% is allowed, and

WHEREAS, the three-season room would neither be heated nor air conditioned, and

WHEREAS, the addition would reduce the rear yard setback from 33 feet to 26 feet, while a 30 foot rear yard setback is required, and

WHEREAS, Ms. Justyna Bates, who resides at 117 Lincoln Street, in back of the applicant's home, was opposed to the variance, and

WHEREAS, the applicant's lot is undersized, being 7,500 square feet, while the minimum lot size in the R-10 Zone is 10,000 square feet, and has a width of 75 feet, while the minimum lot width in the R-10 Zone is 75 feet, and

WHEREAS, there is a hardship associated with the size and width of the lot and the location of the home pursuant to N.J.S.A. 40:55D-70c(1), and

WHEREAS, the variance is also justified under N.J.S.A. 40:55D-70c(2) by advancing a purpose of the Municipal Land Use Law under N.J.S.A. 40:55D-2i by promoting a desirable visual impact by the substitution of the paved patio with an attractive three-season room, and

WHEREAS, the benefits from the deviations substantially outweigh any detriments, and

WHEREAS, there is no other location on the lot where a three-season room could be constructed, and

WHEREAS, the three-season room is no closer to the rear property line than the existing patio, and

WHEREAS, there is a substantial solid fence and some landscaping across the rear of the Bates property facing the applicant's property which will be augmented by the landscaping required in condition 5 herein, and

WHEREAS, located on the Bates property as illustrated on Exhibit A-2 is a large finished tree house which overlooks the Rotsheyn property, and

WHEREAS, the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Township of Berkeley Heights, and

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Berkeley Heights on this 18th day of December, 2017 that the application of LEO ROTSHYEN be approved, in accordance with a plan titled: "THE ROTSHYEN (sic) SUNROOM BERKELEY HEIGHTS, NJ 116 WASHINGTON STREET", prepared by Fred Klenk, Architect, Engineer, Planner, dated September 6th, 2017, consisting of a single sheet, subject, however, to the following conditions:

1. The applicant shall obtain approval from the Township Tree Inspector prior to removing any trees.
2. The architecture and exterior materials for the three-season room shall be compatible with the existing home.
3. The applicant shall submit a drainage plan to the Township Engineer for his approval. A building permit shall not be issued until the plan is approved. The drainage plan is to be implemented to the approval of the Township Engineer.
4. The three-season room shall neither be heated nor air-conditioned.
5. The applicant shall present a landscape plan to the Tree Inspector, which he may draw, with three (3) arborvitae, similar to those on the Bates property, at least 5 feet tall at the time of planting, to be planted along his rear yard to buffer the Bates residence, with the location and actual species subject

to the approval of the Municipal Tree Inspector. The plans shall be submitted and approved prior to a building permit being issued. The trees shall be planted no later than May 1st, 2018. Dead, diseased and missing trees shall be replaced to the approval of the Township Tree Inspector.

6. No permits shall be issued until all fees and escrows are paid.


Roll Call Vote: 4-0

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

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 December 18, 2017 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 November 9, 2017.


ANGELA LAZZARI, SECRETARY
BOARD OF ADJUSTMENT
TOWNSHIP OF BERKELEY HEIGHTS
STATE OF NEW JERSEY