

**TOWNSHIP OF BERKELEY  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
MAY 9, 2012  
6:30 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, 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. Robert & Debra Bennett BOA # 11-5394

Interpretation of Resolution

Block 1108.08

Lot 42

Address: 83 Yardarm Court

Zone: R-60

- 2. Gregory Groiss BOA # 12-5398

Variance requested

Bulk/rear

Project

Addition

Block 550

Lots 5 - 11

Address: 445 Michael Ave.

Zone: R-150

Denial reads: Applicant proposes to construct a one-story 992 s.f. living space and garage with a 20 ft. rear setback; whereas 30 ft. is required.

- 3. Sadot Rios BOA # 12-5397

Variance requested

Pool setbacks side/rear

Project:

Block 1497

Lots 16, 18

Address: 40 Serpentine Dr.

Zone: CR Conservation

Denial reads: Pool violates accessory rear and side setbacks of 15 ft. (6 ft. side & 11 ft. rear proposed along with 3 ft. for equipment).

G. RESOLUTIONS

- I. Vouchers

H. ADJOURNMENT

**REMINDER: MAY 23, 2012 – 6:30 PM MEETING ON THE COVE (SANTOS MARINA) BLOCKS 1032 & 1033.**

APPEAL NO. BOA#11-5376  
BENNETT  
VARIANCE – 2 STORE ADDN & PORCH  
BLOCK 1108.08 LOT 42  
ZONE: R-60 RESIDENTIAL  
83 YARDARM COURT

RESOLUTION OF THE BERKELEY TOWNSHIP  
BOARD OF ADJUSTMENT

RESOLUTION OF MEMORIALIZATION OF THE BERKELEY TOWNSHIP  
BOARD OF ADJUSTMENT APPROVING A VARIANCE PURSUANT TO  
N.J.S.A. 40:55D-70(c) FOR BLOCK 1108.08 LOT 42

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WHEREAS, an application has been made by Debra and Robert Bennett for the granting of bulk variances pursuant to the provisions of N.J.S.A. 40:55D-70(c) for Block 1108.08

Lot 42, so as to permit the construction of a two story addition and porch; and,

WHEREAS, the Berkeley Township Zoning Board of Adjustment has considered the application, has held a public hearing thereon on the 9<sup>th</sup> day of November, 2011, and has taken testimony and received the report of its professional staff, the Zoning Board does hereby make the following findings of fact:

- A. The applicant has a proprietary interest in the property.
- B. The applicant has requested the granting of variances in accordance with the Ordinances of the Township of Berkeley.
- C. The use proposed by the applicant is a permitted use under the Zoning Ordinances of the Township of Berkeley.
- D. The applicants, Debra and Robert Bennett, testified on behalf of the application.
- E. The applicant proposes to construct a two story 12.33 feet by 36.5 feet living space addition which will leave a 10 feet by 4 inch side yard setback where 7 feet is required, and a 12.37 feet combined side yard setback where 18 feet is required, and a front yard setback of 25.6 feet where 25 feet is required.
- F. The applicant agreed to revise and resubmit plans to propose construction of an a two story 12.33 feet by 36.5 feet living space addition which will leave a 10 feet by 4 inch side yard setback where 7 feet is required, and a 12.37 feet combined side yard setback where 18 feet is required, and a front yard setback of 25.6 feet where 25 feet is required

does not conform with the following setbacks and requirements

1. Proposing a front yard setback of 25.6 feet where 35/25 feet is required.
  2. Proposing a side yard setback of 10.4 feet where 7 feet is required.
  3. Proposing a side yard setback combined of 12.37 feet where 18 feet is required.
- G. The applicant has agreed that the proposed addition height will not exceed the maximum allowable height of 35 feet.
- H. The applicant has agreed that that proposed structure should not encroach into existing easements (i.e., share tree, utility, drainage, etc.) without proper consent from the Township and respective easement holders.
- I. The applicant has agreed to that 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.
- J. The granting of this approval will provide for adequate light and air on the subject site while maintaining sufficient open space on the lot and in relationship to adjoining properties.
- K. The Board is satisfied that the purposes of the Municipal Land Use Law will be advanced by this deviation from the Ordinance and that the benefits of this deviation will substantially outweigh any detriment is an appropriate use, will promote the public health, safety, morals and general welfare, will provide light, air and open space and provide for additional uses associated with the permitted residential use.
- L. The Board is satisfied that the granting of the variances as recited above will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinances of the Township of Berkeley.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of Berkeley, County of Ocean, State of New Jersey, that the Board does hereby grant and approve the variances for: construction of a two story 12.33 feet by 36.5 feet living space addition which will leave a 10 feet by 4 inch side yard setback where 7 feet is required, and a 12.37 feet combined side yard setback where 18 feet is required, and a front yard setback of 25.6 feet where 25 feet is required subject to the following conditions:

1. The applicant agrees that proposed grading, if any, will not impact adjacent

property. A grading permit is required as a condition to obtaining a construction permit.

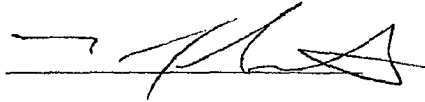
- 2. The applicant must certify that the plan as submitted is a true and accurate representation of the existing and proposed improvements on the site.
- 3. The applicant must submit revised plans to reflect the agreed upon side yard setback of 10.4 feet.
- 4. The applicant must submit revised plans if required by the Board.
- 5. Proof of approval and/or waivers from all agencies having jurisdiction including Waterfront Development, Flood Plain Management, CAFRA, Ocean County Soil Conservation, Berkeley Township Sewerage Authority, and Berkeley Township Municipal Utility Authority.
- 6. The matters agreed to by Applicant as set forth in the Findings of Fact above are hereby made conditions of this approval and shall be binding on the Applicant.
- 7. This variance shall expire and no longer be valid unless construction in accordance with the approval shall have been actually commenced within one year from the date of adoption of this resolution.
- 8. Payment of all outstanding professional fees of the Board and Township.
- 9. Construction on the lot is subject to review and approval of the Berkeley Township Construction Official.
- 10. A copy of this Resolution of Approval shall be placed in the Township Construction File.
- 11. Applicant shall submit a final "as built" plan at the conclusion of all construction.
- 12. Applicant must reapply and pay for a Zoning Permit.

The foregoing Resolution was duly passed and adopted by the Berkeley Township

Zoning Board of Adjustment on the 14th day of December, 2011, by the following vote:

YES:	<u>7</u>
NO:	<u>0</u>
ABSTAIN:	<u>1</u>
DISQUALIFIED:	<u>0</u>
ABSENT:	<u>1</u>

ATTEST:



Secretary

BERKELEY TOWNSHIP ZONING  
BOARD OF ADJUSTMENT



By:

Chairman



# Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500  
Consulting Engineers, Planners & Surveyors  
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## PRINCIPALS

John A. Ernst, Jr., (1909-1987)  
John A. Ernst, III, (Retired)  
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John N. Ernst, P.E., C.M.E., P.P.

Carl P. Werner, L.S., P.P.  
Harold Mathis, Jr., L.S., P.P.

April 10, 2012

Patricia Osborne, Board Secretary  
Berkeley Township Zoning Board of Adjustment  
Pinewald-Keswick Road  
P.O. Box B  
Bayville, NJ 08721

Re: **Gregory A. Groiss**  
**Application: Rear Setback Variance For Proposed Dwelling Addition**  
**BOA #12-5398**  
**Block 550, Lots 5-11**  
**445 Michael Avenue**  
**Zone: R-150**  
**EE & L Project No. 12B4533-7G03**

Dear Ms. Osborne:

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:

The denial letter issued February 23, 2012 by the Zoning Official states "Applicant proposes to construct a one-story 902 square foot living space and garage addition with a 20 foot rear yard setback; whereas 30 feet is required".

### A. Completeness

1. Based upon our review, we recommend that this application be deemed complete subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **May 9, 2012** meeting agenda.
2. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.
3. It is noted that the applicant has checked most items N/A (not applicable) on the Checklist Application for "C Variance", whereas, most of the items should have been checked as YES as the survey submitted answers the required information.

### B. General Comments

The property is located on the East side of Michael Avenue approximately 100 feet south of Veterans Boulevard. The property lies within the R-150 Zone and comprises an area of 0.40 acres. The site contains an existing one-story frame dwelling, an inground pool, a frame shed and an asphalt driveway. The side and rear yards are entirely enclosed with a vinyl fence.

The site lies within Flood Zone X (un-shaded), which is an area to be outside the 0.2% annual chance flood plain.

The applicant proposes to construct a non-conforming 902 square foot. one-story dwelling addition with an abutting 300 square foot deck.

### C. Variance Requested and Items of Discussion

1. Rear yard setback variance is required as the proposed setback is 19.4 feet; whereas 30 feet is required.
2. Applicant must provide testimony and proofs supporting the granting of the variance:

Re: Gregory A. Groiss  
Application: Rear Setback Variance For Proposed Dwelling  
BOA #12-5398  
Block 550, Lot 5-11  
Zone: R-150  
EE & L Project No. 12B4533-7G03

Page 2 of 2



3. Plan submitted in support of the variance is a "Plot Plan & Map of Survey", prepared by Charles B. Rush, P.E. & L.S., and dated April 4, 2012.
4. All existing front and side yard setbacks appear conforming by dimension.
5. The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variance will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

**D. Conditions and Recommendations**

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the proposed construction will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

  
John J. Mallon, PE  
Zoning Board Engineer

KP/JJM/jet

cc Anna Wainwright, Board Planner  
Alex Pavliv, Board Attorney  
Gregory A. Groiss, Applicant  
file

bing

Maps

Road

Traffic



Site

Sign in 20 Newark, New Je...

Print Share





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(201) 624-2136 (fax)

**MEMO:** Berkeley Township Zoning Board of Adjustment

**FROM:** Anna Wainright, P.P., A.I.C.P.  
Zoning Board Planner 

**DATE:** April 11, 2012

**RE:** Groiss- PLANNER Review #1  
Application: One Story Addition and Deck  
Block 392, Lots 6 & 7  
Fronting on: Michael Avenue  
Zoning District: R-150  
Plan Title: Plot Plan & Map of Survey  
Prepared By: Charles Rush, P.E., P.L.S., Dated: 4/3/12  
BOA#: 12-5398  
Our File: 1506-Z-132

As requested, our office has reviewed the above named variance application and offer the following comments and recommendations:

### Zoning Requirements

#### R-150 Residential Zone §35-95 & 35-96.2

<u>Principal Bldg</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Requested</u>
Minimum Lot Area	15,000 SF	17,500 SF	15,500 SF	None
Minimum Lot Frontage	100 FT	175 FT	175 FT	None
Front Yard Setback	35 FT	35 FT	35 FT	None
Rear Yard Setback	30 FT	29.4 FT	19.4* FT	*Variance Required
Side Yard Setback	10 FT	29 FT	14.6 FT	None
Combined Side Yard Setbacks	25 FT	108.5 FT	94.6 FT	None
Maximum Lot Coverage	25 %	N/A	14 %	None

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**A. PROJECT OVERVIEW**

The denial letter states: Applicant proposes to construct a one story 902 SF living space and garage addition with a 20 foot rear yard setback where 30 feet is required. Submitted survey indicates that the Applicant is actually requesting a 19.4 foot setback where 30 feet is required. Plans also indicate that the addition is 950 SF.

**GENERAL REVIEW COMMENTS**

1. The applicant is proposing to construct a one story addition to their existing single story home. The addition will include a two car garage, new family room, bathroom, and 25.6 X11.6 foot deck. The new addition meets the front yard and side yard setback requirements, but encroaches by 10 feet into the rear yard setback.
2. Lots on the south and easterly property lines are developed with single family homes and accessory uses. Purchase of property on the rear would render the adjacent lot non-conforming. Therefore, the Applicant must provide testimony which satisfies the Board that the following conditions exist which would merit a variance approval.
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.

The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variance will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

**B. DISCUSSION ITEMS**

In addition to the above, the applicant should be prepared to provide testimony regarding the following:

1. The Applicant should provide testimony regarding the existing conditions on the site and the neighboring properties. If the Applicant's addition requires the removal of screening trees, it is recommended that the Applicant be required to plant additional landscaping to help mitigate any impacts which may occur as a result of the requested lesser setback.

**CONDITIONS AND RECOMMENDATIONS:**

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant provide additional landscaping on the rear property line to help mitigate any visual or noise impacts to the adjoining neighbor.
2. The Applicant certifying that the proposed addition will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township or involved party.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. Payment of all COAH Development Fees, where required.
5. The Applicant provide all required plans necessary to show compliance with all required Building Codes, to the Building Department at the time of the permit application, such as but not necessarily limited to the following:
  - a. The applicant submitting any required signed and sealed architectural plans of the proposed addition which may be required to comply with all testimony, as well as applicable building codes.
  - b. Proof of approval and/or waivers, if required from all agencies having jurisdiction including, the Ocean County Board of Health, the Berkeley Township Sewerage Authority, and the Ocean County Planning Board.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

God Bless America

ARW/ktr

cc: Jack Mallon, P.E. - Board Engineer  
Alex Pavliv, Esq. - Board Attorney  
Gregory A. Groiss - Applicant



# Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500  
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Website: [www.eelengr.com](http://www.eelengr.com)

April 5, 2012

Patricia Osborne, Board Secretary  
Berkeley Township Zoning Board of Adjustment  
Pinewald-Keswick Road  
P.O. Box B  
Bayville, NJ 08721

**Re: Sadot Rios**  
**Application: Rear and Side Setback Variances**  
**For Accessory Structure On An Undersized Lot**  
**BOA #12-5397**  
**Block 1497, Lots 16 & 18**  
**Fronting on Serpentine Drive East**  
**Zone: CR**  
**EE & L Project No. 12B4533-7 R02**

Dear Ms. Osborne:

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

The denial letter issued March 2, 2012 by the Zoning Official states that the "applicant proposes to install a 12 ft. x 28 ft. inground pool that will leave a 6 foot rear yard setback and an 11 foot side yard setback where 15 feet is required for both setbacks"

## A. Completeness

1. Based upon our review, we recommend that this **application be deemed complete** subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **May 9, 2012** meeting agenda.
2. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

## B. General Comments

The property is located on the south side of Serpentine Drive East approximately 200 ft. west of Clayton Street. The property lies within the CR Zone and comprises an area of 12,000 s.f. ± (scaled) or 0.28 acres ±. The site contains a two-story single family dwelling unit with a concrete patio in the rear yard and a concrete driveway on to Serpentine Drive East.

It appears that the applicant has made offers to adjacent property owners of Lots 17, 19-21 to purchase their property or sell his to them in order to make the properties more conforming. Why didn't the applicant make the same offers to the owners of adjacent Lots 14 and 15? Testimony should be provided.

The site lies within Flood Zone X (un-shaded), which is an area determined to be outside the 0.2% annual chance flood plain.

The applicant proposes to install a 12 ft. x 28 ft. pool and appurtenance in the rear and side yards which will be in violation of the Ordinance. The applicant also proposes to remove a circular concrete sidewalk in the side yard and an existing wood shed which appears to be in violation of the Ordinance. An existing aluminum fence which is over the applicant's property line will also be relocated onto the applicant's property.

## PRINCIPALS

John A. Ernst, Jr., (1909-1987)  
John A. Ernst, III, (Retired)  
George C. Lissenden, Jr., (Retired)  
John J. Mallon, P.E., C.M.E., P.P.  
Robert J. Romano, P.E., C.M.E., P.P.  
John N. Ernst, P.E., C.M.E., P.P.

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Carl P. Werner, L.S., P.P.  
Harold Mathis, Jr., L.S., P.P.

Re: Sadot Rios  
Application: Rear and Side Setback Variances  
For Accessory Structure On An Undersized Lot  
BOA #12-5397  
Block 1497, Lots 16 & 18  
Fronting on Serpentine Drive East  
Zone: CR  
EE & L Project No. 12B4533-7 R02



**C. Variances Requested and Items of Discussion**

1. A rear yard setback variance is required as the proposed setback to the pool is 6 ft; whereas 15 ft. is required. Note that the rear setback to the concrete sidewalk is 3 ft.
2. A side yard setback variance is required as the proposed setback to the pool is 11 ft. and the setback to the pool filter is 3 ft.; whereas 15 ft. minimum is required. Note that the side yard setback to the concrete sidewalk around the pool appears to be 8 ft.
3. The applicant is to provide testimony and proofs supporting the granting of the variances.
4. The Board should be aware that the existing lot is grossly undersized; whereas 3 acres or 130,680 s.f. is required and 0.28 acres  $\pm$  or 12,000 s.f.  $\pm$  is existing. Because of the gross deficiency in lot area all of the requirements of Section 35-95 with the exception of both side yard setbacks and dwelling unit area are non-compliant. This lot may have existed prior to zoning changes.
5. How far is the existing aluminum fence off the applicant's property?
6. In as much as no contours or elevations are shown on the submitted survey the applicant should provide testimony as to direction of overland drainage flow. Is there positive drainage from the location to which stormwater flows.
7. The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner, and also be satisfied that the granting of the variance will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

**D. Conditions and Recommendations**


Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the proposed pool and appurtenances do not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

  
John J. Mallon, PE  
Zoning Board Engineer

JJM/jet

cc Anna Wainwright, Board Planner  
Alex Pavliv, Board Attorney  
Sadat Rios, Applicant  
file

