

**RESOLUTION OF THE BOROUGH OF CLAYTON PLANNING
BOARD GRANTING BULK VARIANCE TO HOVBROS
CLAYTON URBAN RENEWAL, LLC FOR
BLOCK 1904.07, LOT 12
(44 June Ann Drive)**

WHEREAS, the Applicant, Hovbros Clayton Urban Renewal, LLC, of 900 Birchfield Drive, Mount Laurel, New Jersey, submitted an application seeking the grant of a setback variance for an existing porch on land which is owned by Carl Bernasz who consents to the filing of the instant application; and

WHEREAS, the property in question is shown on the Tax Map of the Borough of Clayton as Block 1904.07, Lot 12 known as 44 June Ann Drive and approximately 8,793 square feet and located within the PRD – Planned Residential Development Zoning District; and

WHEREAS, the Applicant is a homebuilder who constructed a residential development which included the residence located at 44 June Ann Drive purchased by Carl Bernasz who selected a larger dimensioned porch than is standard with the home he selected. After building the subject home because of the larger porch and curvature of the building lot, it was discovered that there was a setback encroachment from the right of way to the dwelling (porch) where 20 feet is required and 18.9 feet is existing resulting in an approximately four (4) square foot encroachment; and

WHEREAS, the Applicant was represented by Mitchell T. Grayson of Gerstein, Grayson & Cohen, LLP before the Borough of Clayton Planning Board on December 21, 2015; and

WHEREAS, Scott Bordick as the Applicant's representative, Sam Previtera, P.E. of Taylor Wiseman & Taylor, and Carl Bernasz as the homeowner, appeared before the Borough of Clayton Planning Board on December 21, 2015 and offered testimony in support of this application; and

WHEREAS, the Applicant is seeking relief from Clayton UDO Section 23A-23C2(i)(5)(a) which requires a 20 foot setback from the right of way and 18.9 feet is existing from the porch to the right of way on the residence as constructed; and

WHEREAS, it would be a hardship to require the Applicant or owner to demolish the porch to comply with a *de minimis* encroachment and the Applicant offered an explanation as to how the encroachment came to exist and that it was certainly not intentional; and

WHEREAS, the Applicant offered a survey of the subject property as existing signed and sealed on November 11, 2015 by Thurman Golightly, PLS of Taylor Wiseman & Taylor together with exhibits: Hovbros – 1 a photograph of the subject residence, Hovbros – 2 another photograph of the subject residence, and Hovbros – 3 the final survey **before** the home was built; and

WHEREAS, the Board was satisfied that the Applicant may be granted the requested right of way setback relief without impairing the intent and purpose of the zone plan and zoning ordinance nor substantial detriment to the public good; and

WHEREAS, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on December 21, 2015 and no one appeared to be heard; and

WHEREAS, the Board after due consideration submits that the Applicant has met his burden and that the benefits of the grant of the variance will outweigh the detriments and that there would be no substantial detriment to the public or impairment of the zone plan; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;

NOW, THEREFORE, BE IT RESOLVED that the application for the grant of bulk variance relief as hereinbefore stated to permit the existing residence with front porch encroaching in the right of way setback and hereinbefore stated is **GRANTED**.

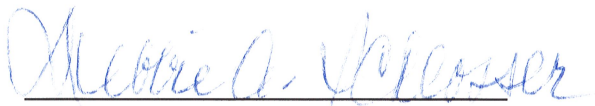
BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment held on Monday, January 25, 2016.

**Borough of Clayton Combined
Planning Board and Zoning Board of Adjustment**


By: Kevin Nesko, Chairman

Attest:

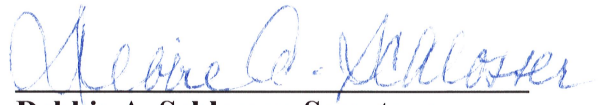

Debbie A. Schlosser, Secretary

ROLL CALL VOTE

THOSE IN FAVOR	<u>9</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>0</u>

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on January 25, 2016 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:30 p.m. and memorializes the decision reached by said Board on the herein application at the Board's December 21, 2015 meeting and public hearing.



Debbie A. Schlosser, Secretary