

Bulk Variance Relief
Ruta Slepetyts
351 Iroquois Drive
Block 887, Lot 8
Zone: R-7.5 (Single Family Residential) Zone
Application No. BA-3177-11/19

**RESOLUTION OF APPROVAL
BRICK TOWNSHIP ZONING BOARD OF ADJUSTMENT
APPLICATION NO. BA-3177-11/19
MAY 20, 2020**

WHEREAS, Ruta Slepetyts (the “Applicant”) has applied to the Brick Township Zoning Board of Adjustment (the “Board”) for bulk variance relief, pursuant to N.J.S.A. 40:55D-70c, for lands known and designated as Block 887, Lot 8, on the official tax map of the Township of Brick and more specifically known as 351 Iroquois Drive, Brick, NJ 08724 (the “Property”); and

WHEREAS, a complete application has been filed, the fees as required by Township ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order, and it otherwise appears that the jurisdiction and powers for the Board have been properly invoked and exercised; and

WHEREAS, a public hearing was held on May 6, 2020, via the Zoom platform, at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties having an opportunity to be heard.

NOW, THEREFORE, the Board makes the following findings of fact based on evidence presented at its public hearing at which a record was made:

1. The Applicant is seeking bulk variance relief to construct a front deck with stairs on the subject Property.

2. The Property contains 5,621 s.f. within the R-7.5 (Single Family Residential Zone). The Property is also bounded by residential lots to the south, west and east with 90 feet of frontage on Iroquois Drive. The Applicant is also seeking bulk variance relief to legitimize an existing shed located in the rear yard of the Property.

3. Based upon the Application and plans submitted, the following bulk variance relief is required:

	Required	Existing	Proposed
Front Yard setback (deck)	25 feet	N/A	17.7 feet
Rear Yard setback (shed)	4 feet	1.9 feet	1.9 feet

4. The Applicant testified that she was seeking to construct a 8'7" x 5'2" front deck with stairs to access an existing front doorway of her residence. She explained that the purpose of the proposed deck was to provide additional space and increase the safety of the front accessway to the home. She also stated the proposed stairs would also include handrails. The Applicant then added that the front deck with stairs would further enhance the aesthetics of her home and would not result in any adverse impact on the properties in the neighborhood.

5. The Applicant also acknowledged that the existing shed on the Property requires variance relief. Specifically, a minimum 4-foot rear yard setback is required and a 1.9-foot setback exists.

6. There were no members of the public expressing an interest in this Application.

NOW, THEREFORE, the Board makes the following conclusions of law based upon the foregoing findings of fact:

1. The application before the Board requests bulk variance relief from front yard setback requirements to permit the construction of a front deck with stairs and to legitimize an existing shed on the Property. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the Applicants satisfy certain specific proofs which are enunciated in the Statute. Specifically, the Applicants may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. Applicants may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the Applicants may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the Applicants have the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

2. Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, Applicants must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the Applicants have satisfied both these tests, that a Board, acting

pursuant to the Statute and case law, can grant relief. The burden of proof is upon the Applicants to establish these criteria.

3. The Board finds that the Applicant has satisfied the positive criteria. The Board finds that the purpose for which front and rear yard setbacks are required by Ordinance is to ensure sufficient space between the existing home and the street and adjacent properties and to also provide sufficient air, light and open space. The Board concludes that the application advances the intent and purpose of the Municipal Land Use Law as set forth in N.J.S.A. 40:55D-2i because the proposed improvement as well as the existing shed will create a more desirable visual environment. The Applicant has therefore satisfied the c(2) positive criteria.

4. Turning next to the negative criteria, the Board finds that the encroachment of the front deck with stairs into the front yard setback and the existing shed into the rear yard setback will not have a detrimental effect on neighboring properties and that the improvements will actually benefit neighboring properties through improved aesthetics. The Board also finds that the bulk variance relief sought for the front yard setback will not affect the sightlines from the front driveway and the topography of and drainage on the Property will not be affected by the front deck with stairs. Under such circumstances, the purposes underlying the Ordinance requirement for front and rear yard setbacks will not be substantially detrimentally affected by the granting of the requested variances. Consequently, the Board concludes that the requested bulk variances can be granted without substantial detriment to the public good, the Zone Plan or Zoning Ordinance. The Board concludes, therefore, that the Applicant has satisfied the negative criteria. The Board further concludes that the positive criteria substantially outweighs the negative criteria and that the bulk variance pursuant to N.J.S.A. 40:55D-70c(2) may therefore be granted.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Zoning Board of Adjustment on this 20th day of May, 2020, that the action of the Board taken on May 6, 2020 granting Application No. BA-3177-11/19 of Ruta Slepetys for bulk variance relief, pursuant to N.J.S.A. 40:55D-70c(2), is hereby memorialized, 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 development of this site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application, as revised by the terms hereof.
3. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with the recommendations contained in the reports of the Board’s professionals.