

APPLICATION FORM VILLAGE OF RIDGEWOOD BOARD OF ADJUSTMENT

(THIS BOX FOR OFFICIAL USE ONLY)		
DATE RECEIVED: <u>RECEIVED DEC 26 2023</u>	BLOCK(S): <u>2404</u>	LOT(S): <u>1</u>
ADDRESS OF SUBJECT PROPERTY: <u>264 W. Ridgewood Ave</u>		
APPLICANT NAME: <u>Rosen</u>		APPLICATION NO.: <u>ZBA 23-55</u>

TYPE OF APPLICATION(S) - check all that apply	Application Fee(s)	Escrow Deposit(s)
<input checked="" type="checkbox"/> "C" Variance (§190-33) - \$200 per variance, max. \$1,000	\$1,000	\$4,000
<input type="checkbox"/> "D" Variance (§190-34) - \$1,000 each for prohibited use, expansion of nonconforming use, or density; \$500 each for building height at least 10% over maximum		
<input type="checkbox"/> Appeal of Zoning Officer Decision (§190-29)		
<input type="checkbox"/> Interpretation of Zoning Regulations (§190-30)		
<input type="checkbox"/> Certification of Nonconforming Use/Structure (§190-126G)		
<input type="checkbox"/> Minor Subdivision (§190-45)		
<input type="checkbox"/> Preliminary Major Subdivision (§190-46)		
<input type="checkbox"/> Final Major Subdivision (§190-47)		
<input type="checkbox"/> Exception from Subdivision Design Standards (§190-60)		
<input type="checkbox"/> Permit for Area on Official Map (§190-31)		
<input type="checkbox"/> Permit for Lot not Abutting Street (§190-32)		
<input type="checkbox"/> Extension of Approval (§190-36D, -45H, -46C(3), -46D, -47D, -47E, -47J, -47K, -51 or -97E)		
TOTAL		

Instructions to Applicants: All applicants are required to complete the cover sheet and Parts I, II, III and IV. The various attachments must be completed if they apply to your application. If any parts of the form do not apply to your application, please state "not applicable", "none", etc. If you have any questions, please contact the Board Secretary.

PART I. APPLICANT AND OWNER INFORMATION

- A. Applicant Name David J. Rosen, Trustee*
- B. Applicant's Mailing Address 264 West Ridgewood Avenue
- C. Applicant Telephone No. (347) 489-8899 If unlisted, check here
- D. Applicant Email rosen_david@yahoo.com
- E. Applicant's Attorney Name Price, Meese, Shulman & D'Arminio, P.C. - Matthew R. Weiss, Esq.
- F. Applicant's Attorney Address 50 Tice Blvd, Suite 380, Woodcliff Lake, NJ 07677
- G. Attorney Telephone No. (201) 391-3737 x155 Attorney Email mweiss@pricemeese.com
- H. Property Owner's Name 2012 David J. Rosen Irrevocable Trust
- I. Property Owner's Mailing Address 264 West Ridgewood Avenue, Ridgewood, NJ 07450
- J. Applicant's interest in land, if not owner (e.g., contract purchaser, owner's agent, etc.)
Trustee/Tenant

PART II. EXISTING PROPERTY INFORMATION

- A. Street Address of Property to be Developed 264 West Ridgewood Avenue
- B. Tax Map Block Number(s) Block 2404 Lot Number(s) Lot 1
- C. Zone District(s) R-110
- D. Does the owner or applicant now own or have any interest in any other property that adjoins the premises which are the subject of this application? (check one) Yes No
If yes, describe the adjacent property by block and lot numbers from the current tax map.

*in his capacity as Trustee of the 2012 David J. Rosen Irrevocable Trust

E. Are there any deed restrictions, protective covenants, easements, etc. affecting the subject prop. (check one) Yes No If yes, describe below or on a separate sheet

F. I have obtained from the Secretary of the Board a summary and/or a resolution concerning all prior decisions concerning development applications for the premises and have submitted these documents with this application. (check one) Yes No

Note: This certification must be submitted with the application or the application will be incomplet

G. Existing Use (check all that apply).

Single Family Residence.

Two Family Residence

Other Use (Explain): _____

H. Describe the existing development of the property (buildings, paved areas, etc.).

2.5 story single-family residence, detached garage, paver patio, asphalt driveway

PART III. PROPOSED DEVELOPMENT INFORMATION

A. Proposed Use (check all that apply).

Single Family Residence.

Two Family Residence

Other Use (Explain):

B. Proposed Development (describe all site modifications for which approval is being sought, including buildings, paving, utilities, storm drainage, lighting, signs, landscaping, fencing, etc. and any alterations to existing improvements.

Replacement/expansion of paver patio, addition of in-ground swimming pool and spa, addition of protective fence for pool

C. Required approvals or reviews by other governmental agencies other than the Board of

Adjustment, before construction may start (check all that apply). If in doubt, ask the Board Secretary for information.

- | | |
|--|---|
| <input type="checkbox"/> Historic Preservation Commission | <input type="checkbox"/> Road Opening Permit |
| <input type="checkbox"/> Health Department | <input type="checkbox"/> Bergen/Passaic County |
| <input type="checkbox"/> Construction Code Official | <input type="checkbox"/> Other Municipality |
| <input type="checkbox"/> Soil Movement Permit | <input type="checkbox"/> N.J. DEP (e.g., wetlands) |
| <input type="checkbox"/> Retaining Wall Permit | <input type="checkbox"/> N.J. DOT (e.g., State highway) |
| <input type="checkbox"/> Flood Hazard Area Construction Approval | <input type="checkbox"/> Other (describe below) |

PART IV. PROPOSED VIOLATIONS OF THE LAND USE ORDINANCE (Chapter 190)

The following must be completed if the application is seeking a variance from the zoning regulations in Chapter 190, *Land Use and Development*.

A. The following violations of Chapter 190 are proposed by this application (reference the proposed violations by section and paragraph number in the ordinance):

- 190-101E(10) - maximum coverage by above-grade structures (20% permitted, 21.23% existing, 24.36% proposed)
- 190-101E(11) - maximum coverage by above-grade structures within 175' of front lot line (20% permitted, 21.23% existing, 24.36% proposed)
- 190-119H(1) - maximum improvement coverage (40% permitted, 40.68% existing, 47.3% proposed)
- 190-119H(2) - maximum improvement coverage within 175' of front lot line (40% permitted, 40.68% existing, 47.3% proposed)
- 190-124F(3)(d)[5] - combined height of fences and retaining walls shall not exceed the permitted height for either fences or walls (4' permitted, 10'8" proposed)

B. On a separate sheet, indicate the reasons why you believe that the Board should grant relief of the above ordinance requirements, using the following criteria (check all that apply):

- Permit for Area on Official Map (see §190-31F(1) through (3))
- Permit for Lot not Abutting Street - Official Map (see §190-32F(1) and (2))
- "C" Variance (see §190-33G(1), (2) and (3); or see attached "C" variance criteria)
- "D" Variance (see §190-34G(1)(a), (b) and (c))

VILLAGE OF RIDGEWOOD
ZONING BOARD OF ADJUSTMENT

Owner: 2012 David J. Rosen Irrevocable Trust

Property Address: 264 West Ridgewood Avenue, Block 2404, Lot 1

I am the Owner of the above referenced property. I have consented to the submission of a Land Use Application to the Zoning Board of Adjustment of the Village of Ridgewood.

I hereby grant permission for Zoning Board of Adjustment Members and any of its Professionals and Experts, to enter the property for purposes of inspection in relation to the Land Use Application that I have submitted.

Dated: 12/21/23



Owner:
David J. Rosen, Trustee of the 2012
David J. Rosen Irrevocable Trust

Survey Affidavit

STATE OF NEW JERSEY
COUNTY OF Bergen

} SS:

(David J. Rosen) David J. Rosen, Trustee of the 2012 David J. Rosen Irrevocable Trust
say(s) under oath:

1. **Representations.** If only one person signs this Affidavit, the word "we" shall mean "I." The statements in this Affidavit are true to the best of our knowledge, information and belief.
2. **Property.** We are the present ~~owners~~ (or duly authorized officers, partners, or members of the present owner), of Property located at 264 W. Ridgewood (called this "Property") ~~xxxxxxx~~
Avenue
3. **Survey.** We have examined the attached survey of this Property dated 6/27/22 made by Lantelme Kurens & Associates
4. **No Change.** The survey shows this Property in its present condition. There have been no changes in the boundary lines of this Property. There have been no changes in the principle building, accessory building, fences, driveway, sidewalks, patios, decks. There has been no installation of any new improvements such as a shed, patio, deck, relocation of sidewalk, patios or decks.
5. **Reliance.** We are aware that the Village of Ridgewood, Zoning Board of Adjustment will rely on the truthfulness and the statements made in this Affidavit in connection with the Variance Application that is submitted to the Zoning Board of Adjustment of the Village of Ridgewood.

Signed and sworn to before me on (date)

12/21/23



David J. Rosen, Trustee of the 2012
David J. Rosen Irrevocable Trust

The Ridgewood Zoning Board of Adjustment has the power to hear requests for variance relief under the Municipal Land Use Law. In applying for a variance, you must meet the criteria set forth in N.J.S.A. 40:55D-70(C).

"40:55D-70. Powers

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 [40:55D-62 et seq.] would result in peculiar and exceptional practical difficulties to, or exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposes of this act or the purposes of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act [40:55D-62 et seq.]; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act [40:55D-60]; and

No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L. 1983, C.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An applicant under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act".

Please realize that under the pertinent New Jersey Land Use Law, the term "hardship" does not mean a personal hardship, but rather a hardship pertaining to the property itself. In connection

Arguments in Favor of Requested Variances

- §190-101E(10) – maximum coverage by above-grade structures
 - 20% permitted, 21.23% existing, 24.36% proposed
 - This is an undersized corner lot – the minimum corner lot size in the R-110 Zone is 22,750 SF yet this lot is 16,656 SF (about 73% of the minimum). If this lot were the minimum lot size, the proposed lot coverage would be 17.8%, significantly less than the maximum permitted. The lot size, which is a pre-existing nonconformity, is a hardship that should permit this variance.
- §190-101E(11) – maximum coverage by above-grade structures within 175' of front lot line
 - 20% permitted, 21.23% existing, 24.36% proposed
 - In addition to the arguments made above, because this is a small corner lot with 2 front lot lines, the entire property is within 175' of the front lot line. This is an onerous requirement which was recommended for removal from the Code in the Village's most recent Master Plan.
- §190-119H(1) – maximum improvement coverage
 - 40% permitted, 40.68% existing, 47.3% proposed
 - Again, this is a significantly undersized corner lot. Despite that the maximum improvement requirements depend on lot size irrespective of the zone requirements, a corner lot in the R-110 Zone is contemplated to be no smaller than 22,750 SF. If this lot met that minimum, the proposed improvement coverage would be 34.6%. This creates a hardship that should permit this variance.
- §190-119H(2) – maximum improvement coverage within 175' of front lot line
 - 40% permitted, 40.68% existing, 47.3% proposed
 - Please see above as well as argument in favor of §190-101E(11) with regard to obsolescence of 175' requirement.
- §190-124F(3)(d)[5] – combined height of fences and retaining walls shall not exceed the permitted height for either fences or walls
 - 4' permitted, 10'8" proposed
 - The benefits of this deviation from the Code substantially outweigh the detriments. This fence and retaining wall is intended to protect occupants, visitors, and/or passersby from injuring themselves by limiting access to the backyard and in-ground pool. Adherence to this requirement would risk injury, as a 4' fence is significantly easier to scale than a 10'8" one. This fence/retaining wall is intended to reduce the risk of injury due to the installation of the in-ground pool as much as feasibly possible.

PLEASE NOTE THAT APPLICANT RESERVES THE RIGHT TO AMEND OR SUPPLEMENT ANY OF THESE ARGUMENTS AT ANY TIME.