

FLORENCE TOWNSHIP PLANNING BOARD

RESOLUTION NO. P.B.-2018-06

Application PB#2017-08

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
RICHARD LEVENDUSKI
FOR BLOCK 96, LOTS 9, 10 AND 11
RA- LOW DENSITY RESIDENTIAL ZONING DISTRICT
MINOR SUBDIVISION
w/ BULK VARIANCES
APPROVAL**

Decided: December 21, 2017
Resolution Memorialized: January 23, 2018

WHEREAS, Richard Levenduski has made application to the Florence Township Planning Board for minor subdivision (lot line adjustment) approval to reconfigure two lots (Lots 10 and 11 having merged by operation of law) located at 144 and 132 Delaware Avenue, and also known respectively on the official Tax Maps as Lots 9, 10 and 11 of Block 96;

WHEREAS, the requested minor subdivision approval would increase the size of Lot 9 from its present 6,728 sq. ft. to 13,455 sq. ft., by adding the area of former Lot 10 and would decrease the size of Lot 11 from its present 13,455 sq. ft. to 6,728 sq. ft. by subtracting from it the area of former Lot 10;

WHEREAS, no new development is proposed on either newly configured Lot 9 or Lot 11;

WHEREAS, existing Lot 11 conforms to the bulk standards of the RA Zone District (though there are existing deviations from the setback requirements that are unaffected by the proposed subdivision), but existing Lot 9's area is smaller than the required 10,000 sq. ft. and its lot width of 50 ft. is smaller than the required 75';

WHEREAS, the proposed minor subdivision would flip the lot area and width non-conformities from existing lot 9 over to proposed Lot 11, and create the need for a new sideyard setback variance for the dwelling on Lot 11 which will be only 10.69 ft. from the new property sideline instead of the required minimum of 15 ft., as well as the need for a lot coverage variance to allow 32% lot coverage when a maximum of 25% is allowed;

WHEREAS, the proposed minor subdivision would remove the existing substantial exceedance of the 25% maximum lot coverage on existing Lot 9 which would decrease from the present 59% coverage to less than 20% coverage;

WHEREAS, the proposed minor subdivision would also eliminate current non-conforming northerly side yard setback conditions for both the existing dwelling and the existing garage on Lot 9;

WHEREAS, the applicant is represented by Jonas Singer, Esquire;

WHEREAS, the applicant is the owner of the subject properties, and therefore has standing to bring this matter before the Board;

WHEREAS, upon a finding that the applicant had provided proper mailed and published notices of hearing and that jurisdiction was proper in the Board, it opened a hearing on the application at its December 21, 2017 regular meeting;

WHEREAS, the Board granted certain submission waivers based upon the recommendations of the Board Engineer and found the minor subdivision application sufficiently complete to be heard;

WHEREAS, Mr. Levenduski, appeared, was sworn, and offered his testimony along with the arguments and representations of their counsel in support of the application;

WHEREAS, the Florence Township Planning Board has made the following findings of fact and conclusions of law:

Findings of fact:

1. The applicant is the owner of the subject properties, and therefore has standing to bring this matter before the Board.
2. The applicant has provided proper mailed and published notices of hearing, and jurisdiction is proper in the Board.
3. Application has been made for minor subdivision (lot line adjustment) approval to reconfigure two lots (Lots 10 and 11 having merged by operation of law) located at 144 and 132 Delaware Avenue, and also known respectively on the official Tax Maps as Lots 9, 10 and 11 of Block 96.
4. The requested minor subdivision approval would increase the size of Lot 9 from its present 6m728 sq. ft. to 13,455 sq. ft., by adding the area of former Lot 10 and would decrease the size of Lot 11 from its present 13,455 sq. ft. to 6,728 sq. ft. by subtracting from it the area of former Lot 10.
5. The proposed minor subdivision would flip the lot area and width non-conformities from existing lot 9 over to proposed Lot 11, and create the need for a new sideyard setback variance for the dwelling on Lot 11 which will be only 10.69 ft. from the new property sideline instead of the required minimum of 15 ft., as well as the need for a lot coverage variance to allow 32% lot coverage when a maximum of 25% is allowed.
6. The proposed minor subdivision would remove the existing substantial exceedance of the 25% maximum lot coverage on existing Lot 9 which would decrease from the present 59% coverage to less than 20% coverage.
7. The proposed minor subdivision would also eliminate current non-conforming northerly side yard setback conditions for both the existing dwelling and the existing garage on Lot 9
8. Other than the proposed lot line adjustment (minor subdivision), no new development is proposed in conjunction with this application. There is an existing single-family dwelling with associated accessory structures and

amenities on each existing lot, and these structures and amenities will remain in their present forms.

9. The applicant has submitted the following documents in support of its application:
 - a. A completed Township of Florence Land Development Application (with an attachment prepared by the applicant stating his arguments for the requested bulk variances);
 - b. A completed Township of Florence Minor Subdivision Application Checklist of Submission Requirements;
 - c. A completed Township of Florence Variance Application Checklist of Submission Requirements;
 - d. Proof that no taxes were due on the subject properties at the time of the application;
 - e. Plan of Minor Subdivision prepared by William J. Robbins, PLS, dated 12/05/2017;
 - f. An executed Escrow Agreement;
 - g. Proper application and escrow fees as required by ordinance;
10. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated December 15, 2017 commenting upon the application which is hereby incorporated into the record.
11. The Board accepts as credible and probative the testimony of the applicant that the purpose of the lot line adjustment is to better allocate the available land to the more intensively developed of his two properties, and that the reduced lot area and width of proposed Lot 11 is consistent with the lot configurations of several other properties in the surrounding neighborhood.
12. The applicants testified that there are presently no drainage issues on either Lot, and the Board Engineer confirmed that observation in light of his examination of the site.
13. The Board is mindful that any new development on Lot 11 that would cause an increase in lot coverage on that Lot, which already has development that exceeds lot coverage standards, would necessarily be subject to Board review.

14. No public comment was offered on the application.

Conclusions of Law:

The Board finds that the proposed minor subdivision (lot line adjustment) and associated bulk variances taken can be granted pursuant to NJSA 40:55D-70(c)(2), because the proposed new lot configurations and resulting pattern of development (that provides a far better allocation of lot coverage than current conditions) provide a better zoning alternative than the current lot configuration, and the benefits to the general welfare of the proposed development substantially outweigh any detriment to the public good or impairment of the zone plan which would result from this deviation from the ordinance standard. Therefore, the Board finds it appropriate, pursuant to NJSA 40:55D-70(c)(2), and subject to appropriate conditions, to grant the requested variance.

The Board finds that the proposed minor subdivision should be approved, subject to appropriate conditions as set forth below, because, but for the variances discussed above, the development is in conformity with Township ordinance standards and application requirements for such development.

NOW, THEREFORE, BE IT RESOLVED by the Florence Township Planning Board in the County of Burlington and State of New Jersey that the application of Richard Levenduski seeking minor subdivision (lot line adjustment) approval to reconfigure two lots (Lots 10 and 11 having merged by operation of law) located at 144 and 132 Delaware Avenue, and also known respectively on the official Tax Maps as Lots 9, 10 and 11 of Block 96, be and hereby is, **GRANTED**, subject to the following conditions:

1. All taxes and escrow fees for professional review must be paid current and in full.
2. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: Burlington County Planning Board. Copies of all applications, permits and certifications related to such approvals shall be filed with this Board.

3. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.
4. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required and shall provide the Board with copies of all reports and approvals for same, including copies of any and all applications filed.
5. Perfection of this approval shall be by filing of appropriate deeds. The applicant shall submit the legal descriptions to the Board Engineer, and the deeds to the Board Solicitor for their review and approval.
6. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date hereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not perfect this approval within 190 days of the date hereof (or such extended date as may be provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

MOTION TO APPROVE:

Moved by : Mr. Molimock
 Seconded by : Mr. Morris
 In Favor : Mr. Molimock, Mr. Morris, Councilman Lovenduski,
 Mr. McCue, Mr. Montgomery, Mayor Wilkie, Chair
 Hamilton-Wood
 Opposed : None
 Abstained : None
 Absent : None

MOTION TO ADOPT RESOLUTION:

Moved by : Mr. Molimock
 Seconded by : Councilman Lovenduski
 In Favor : Mr. Molimock, Councilman Lovenduski, Mr. McCue,
 Mr. Montgomery, Mayor Wilkie, Chair Hamilton-Wood
 Opposed : None
 Abstained : None
 Absent : Morris

FLORENCE TOWNSHIP PLANNING BOARD

Dated: 1/23/18

Thomas Hamilton Wood
 Chair

CERTIFICATION

BE IT REMEMBERED that the within written Resolution was duly adopted at a regular meeting of the Florence Township Planning Board held on January 23, 2018 and memorializes a decision taken by the Board on December 21, 2017.

Dated: 1-23-18

Karen Federico
 Acting Secretary