

FLORENCE TOWNSHIP PLANNING BOARD

RESOLUTION NO. P.B.-2018-09

Application PB#2017-07

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
JAMES HEUPEL
FOR BLOCK 166, LOTS 17.02 and 18.02
R- RESIDENTIAL ZONING DISTRICT
MINOR SUBDIVISION
w/ BULK VARIANCE
APPROVAL**

Decided: February 27, 2018
Resolution Memorialized: March 27, 2018

WHEREAS, James Heupel has made application to the Florence Township Planning Board for minor subdivision (lot line adjustment) approval to reconfigure Lots 17.02 and 18.02 of Block 166 located at 1011 Potts Mill Road into two new lots to be known as Lot 18.03 (upon which will be located the existing single-family dwelling) and Lot 18.04 upon which a new single-family home is proposed;

WHEREAS, the requested minor subdivision approval would result in proposed Lot 18.03 being 1.01 acres and proposed Lot 18.04 being 2.959 acres.

WHEREAS, the new dwelling on proposed Lot 18.04 would be served by public water & sewer, and the existing dwelling on proposed Lot 18.03 by an onsite septic system and public water;

WHEREAS, the proposed lots conform to all applicable bulks standards except that the proposed 60 ft. lot width of proposed Lot 18.04 is less than the required 125 ft.;

WHEREAS, the applicant has also requested relief from the requirement of Ordinance Section 91-74 that sidewalks be provided along the Potts Mill Road frontage;

WHEREAS, the applicant is represented by Erin Szulewski, Esquire of Parker McCay;

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 February 27, 2018 regular meeting;

WHEREAS, the applicant's Engineer and Surveyor, Daniel J. Patterson, was sworn, accepted as an expert in the fields of surveying, and site and civil engineering, and offered his testimony in support of the application;

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

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, 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 Lots 17.02 and 18.02 of Block 166 located at 1011 Potts Mill Road into two new lots to be known as Lot 18.03 (upon which will be located

the existing single-family dwelling) and Lot 18.04 upon which a new single-family home is proposed.

4. The requested minor subdivision approval would result in proposed Lot 18.03 being 1.01 acres and proposed Lot 18.04 being 2.959 acres.
5. The new dwelling on proposed Lot 18.04 would be served by public water & sewer by way of a 15 ft. wide utility easement along the driveway in the flag lot stem, and the existing dwelling on proposed Lot 18.03 would continue to be served by an onsite septic system and public water.
6. The proposed lots (and existing & proposed development on each lot) conform to all applicable bulks standards except that the proposed 60 ft. lot width of the flag lot stem for proposed Lot 18.04 is less than the required 125 ft.
7. The applicant has also requested a design exception or “waiver” from the requirement of Ordinance Section 91-74 that sidewalks be provided along the Potts Mill Road frontage.
8. The applicant has submitted the following documents in support of its application:
 - a. A completed Township of Florence Land Development Application;
 - 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. Minor Subdivision Plat prepared by Daniel J. Patterson, PE, PLS, dated 11/06/2017;
 - f. Boundary & Partial Topographic Survey prepared by Daniel J. Patterson, PE, PLS, dated 01/02/2017;
 - g. NJDEP Freshwater Wetlands LOI dated March 28, 2017;
 - h. NJDEP Freshwater Wetlands Application and Wetlands Delineation Report prepared by DuBois Environmental Consultants dated 1/13/17;
 - i. Submission letter dated 11/30/17 prepared by the applicant’s counsel;

- j. Letter from applicant's counsel dated 01/25/18 concerning proper street address of the subject property;
 - k. November 10, 2010 letter from David Lebak to Potts Mill Road residents concerning 2" sewer main;
 - l. An aerial view of the subject property upon which existing lot lines have been superimposed, introduced and accepted into evidence in the course of the public hearing as Exhibit "A-1";
 - m. An aerial view of the subject property upon which proposed new lot lines and the proposed new dwelling have been superimposed, introduced and accepted into evidence in the course of the public hearing as Exhibit "A-2";
 - n. An expanded view of part of the submitted subdivision plan upon which the flood hazard line has been superimposed, introduced and accepted into evidence in the course of the public hearing as Exhibit "A-3";
 - o. An executed Escrow Agreement;
 - p. Proper application and escrow fees as required by ordinance;
9. The Board's Planner, Barbara Fegley, AICP, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted a review letter commenting upon the application dated January 10, 2018 which is hereby incorporated into the record.
10. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated January 9, 2018 commenting upon the application which is hereby incorporated into the record.
11. The Board accepts as credible and probative the testimony of the applicant and his expert that the proposed development will be consistent with the general pattern and intensity of development of other properties in the surrounding neighborhood.
12. The narrower frontage for proposed Lot 18.04 accommodates the location of the existing dwelling and garage on proposed Lot 18.03. If wider frontage were provided for proposed Lot 18.04, the existing garage would have to be demolished or the side yard setbacks for the garage reduced below required minimums.

13. The proposed development on proposed new Lot 18.04 is elevated significantly from the flood plain of the adjoining Craft's Creek and will be outside of the wetlands, flood hazard and wetlands transition areas associated with the Creek.
14. There is not presently any sidewalk at the frontages of any other nearby properties along Potts Mill Road, and municipal planning for sidewalk development in the area of Potts Mill Road near the subject property is at present merely conceptual and without any timeline for actual implementation.
15. 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 variance for lot width can be granted pursuant to NJSA 40:55D-70(c)(2), because the proposed new lot configurations and resulting pattern of development provide a better zoning alternative with a more efficient use of land than strict adherence to applicable standards, 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 further finds that the requested design exception to allow omission of sidewalks from the frontage of the subject property should be granted because requiring such sidewalks would result in a "sidewalk to nowhere" since there are no sidewalks on nearby properties. A contribution in lieu of construction should not be imposed because the Township does not have a plan for sidewalk construction in that area of Potts Mill Road in the reasonably foreseeable future such that there would exist a nexus between the payment in lieu imposition, the impacts of the currently proposed development and actual construction of such sidewalks with the collected funds.

The Board finds that the proposed minor subdivision should be approved, subject to appropriate conditions as set forth below, because, but for the variance and design exception

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 James Heupel seeking minor subdivision (lot line adjustment) approval to reconfigure Lots 17.02 and 18.02 of Block 166 located at 1011 Potts Mill Road into two new lots to be known as Lot 18.03 (upon which will be located the existing single-family dwelling) and Lot 18.04 upon which a new single-family home is proposed, be and hereby is, **GRANTED**, subject to the following conditions:

1. Compliance with the plan detail and design comments set forth in the review letter of the Board Engineer.
2. The applicant shall work administratively with the Board Planner to select appropriate species and locate shade trees along the driveway entrance (but outside the proposed utility easement on proposed Lot 18.04.
3. All taxes and escrow fees for professional review must be paid current and in full.
4. 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.
5. 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.
6. 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.

7. 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.
8. 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. Montgomery
 Seconded by : Mr. McCue
 In Favor : Mr. Montgomery, Mr. Molimock, Mr. McCue, Councilman
 Lovenduski, Mr. Pagano, Mayor Wilkie,
 Opposed : None
 Abstained : None
 Recused : Chair Hamilton-Wood
 Absent : Mr. Morris; Mr. Mattson

MOTION TO ADOPT RESOLUTION:

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

FLORENCE TOWNSHIP PLANNING BOARD

Dated: 3/27/18


 Mildred 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 March 27, 2018 and memorializes a decision taken by the Board on February 27, 2017.

Dated: 3-27-18


 Karen Federico, Acting Secretary