

FLORENCE TOWNSHIP PLANNING BOARD

RESOLUTION NO. P.B.-2018-12

Application PB#2018-01

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
DAVID BOUDWIN
FOR BLOCK 171.02, LOTS 16 and 17
AGR- AGRICULTURAL ZONING DISTRICT
MINOR SUBDIVISION
(LOT LINE ADJUSTMENT)
w/ BULK VARIANCE
APPROVAL**

Decided: April 24, 2018
Resolution Memorialized: May 22, 2018

WHEREAS, David Boudwin has made application to the Florence Township Planning Board for minor subdivision (lot line adjustment) approval to reconfigure Lots 16 and 17 of Block 171.02 located at 32 and 34 Fountain Boulevard in order to alleviate an encroachment of the existing dwelling on Lot 16 onto Lot 17;

WHEREAS, both of the existing lots were created under previous standards so there are numerous pre-existing nonconforming conditions pertaining to both lots such as lot area, lot depth, lot width, constraint free circles and side yard setbacks when gauged against current requirements of the AGR Zone District;

WHEREAS, the requested minor subdivision approval would result in proposed Lot 16 being .57 acres and proposed Lot 17 being .67 acres;

WHEREAS, the dwelling on existing Lot 16 encroaches 1.4 feet onto existing Lot 17, and after subdivision the dwelling on Lot 16 would be set back 10.3 ft. from the relocated property line between Lots 16 and 17;

WHEREAS, the applicant is the owner of Lot 17, the owners of Lot 16, Joseph and Joyce Zahorsky have consented to the making of this application, and the applicant 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 April 24, 2018 regular meeting;

WHEREAS, the applicant's Engineer Dante Guzzi, PE, was sworn, accepted as an expert in the field of site and civil engineering, and offered his testimony in support of the application;

WHEREAS, Mr. Boudwin appeared *pro se*, was sworn, and offered his testimony 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 Lot 17, the owners of Lot 16, Joseph and Joyce Zahorsky have consented to the making of this application, and the applicant 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 16 and 17 of Block 171.02 located at 32 and 34 Fountain Boulevard in order to alleviate an encroachment of the existing dwelling on Lot 16 onto Lot 17.

4. The requested minor subdivision approval would result in proposed Lot 16 being .57 acres and proposed Lot 17 being .67 acres.
5. Both of the existing lots were created under previous standards so there are numerous pre-existing nonconforming conditions pertaining to both lots such as lot area, lot depth, lot width, constraint free circles and side yard setbacks when gauged against current requirements of the AGR Zone District.
6. The dwelling on existing Lot 16 encroaches 1.4 feet onto existing Lot 17, and after subdivision the dwelling on Lot 16 would be set back 10.3 ft. from the relocated property line between Lots 16 and 17.
7. The proposed 10.3 ft. setback of the dwelling on Lot 16 after relocation of the lot line between Lots 16 and 17 will still be less than the required 30 ft., so a side yard setback variance is necessary for approval of the proposed minor subdivision.
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 Plan prepared by Steven C. Woodrow, PLS, of Dante Guzzi Engineering Associates, dated 03/27/18;
 - f. An annotation of submitted plan sheet SD-1 upon which existing lot lines and septic bed locations have been superimposed in red, introduced and accepted into evidence in the course of the public hearing as Exhibit "A-1";
 - g. An executed Escrow Agreement;
 - h. Proper application and escrow fees as required by ordinance;

9. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated April 5, 2018 commenting upon the application which is hereby incorporated into the record.
10. The Board accepts as credible and probative the testimony of the applicant and his expert that after the proposed subdivision, the newly configured lots will remain consistent with the general layout and pattern of development of other properties in the surrounding neighborhood.
11. The proposed new lot line accommodates the location of the existing dwelling on Lot 16, and though there is still nonconforming setback of only 10.3 ft. when a 30 ft. setback is required, this is a substantial improvement over the current encroachment onto adjoining Lot 17.
12. The existing shed associated with Lot 16 is actually now on Lot 17 and would be in a non-conforming location on Lot 16 after the proposed minor subdivision. The applicant is agreeable to a condition of approval that the shed be removed entirely or relocated to a location in the area of the former swimming pool that is set back at least 12.3 ft. from the relocated property line. This location shall be shown on revised plans.
13. No new or additional development is proposed in conjunction with the requested lot line adjustment.
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 variance for the 12.3 ft. side yard setback of the dwelling on Lot 16 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 than strict adherence to applicable standards, and the benefits to the general welfare of the proposed deviation 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 variance discussed above, the development is in conformity with Township ordinance standards (or is lawfully pre-existing non-conforming with regard to such standards) and the application has addressed the 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 David Boudwin seeking minor subdivision (lot line adjustment) approval to reconfigure Lots 16 and 17 of Block 171.02 located at 32 and 34 Fountain Boulevard in order to alleviate an encroachment of the existing dwelling on Lot 16 onto Lot 17, be and hereby is, **GRANTED**, subject to the following conditions:

1. The shed associated with Lot 16 shall be removed entirely or relocated to a location in the area of the former swimming pool that is set back at least 12.3 ft. from the property sideline. This location shall be shown on the revised plan.
2. The locations of existing wells and septic systems shall be shown on the revised plan.
3. A floodplain note shall be added to the plans in accord with item 5 on page 4 of the Board Engineer's review letter.
4. All taxes and escrow fees for professional review must be paid current and in full.
5. 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.
6. 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.

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

MOTION TO ADOPT RESOLUTION:

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

FLORENCE TOWNSHIP PLANNING BOARD

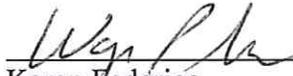
Dated: 5/22/18


 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 May 22, 2018 and memorializes a decision taken by the Board on April 24, 2017.

Dated: 5-22-18


 Karen Federico, Acting-Secretary
 Wayne Morris,