

BRICK, TOWNSHIP OF

(PLANNING AND ZONING DEPT.)



LDS BR-PZ 10503805

BRICK TOWNSHIP PLANNING BOARD
MINOR SUBDIVISION APPROVAL
WITH VARIANCES AND WAIVERS

RESOLUTION R-92-99

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CASE NO. PB-2305-MS-V-7/99

October 13, 1999

WHEREAS, TOWNSHIP OF BRICK, having a mailing address of 401 Chambers Bridge Road, Brick, NJ 08723, has applied to the Brick Township Planning Board for minor subdivision approval with variances and waivers pursuant to N.J.S.A. 40:55D-47, -51, -60 and -70; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on October 13, 1999 in the Municipal Building, at which time testimony and exhibits were presented on behalf of the applicant, and all interested parties having been heard; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is known and designated as Block 1383, Lots 6 and 7, on the Municipal Tax Map.

2. The property is located in the R-20 Residential Zone, the R-R-2 and the R-M Residential Multi-Family Dwelling Zones.

3. The proposal for this minor subdivision is as shown on a map entitled "Minor Subdivision Lots 6 and 7 Block 1383 Tax Map Sheet 67.05 Situated in Brick Township, Ocean County, New Jersey" executed by Birdsall Engineering, Inc. by John W. Massey, P.L.S. dated July 2, 1999 and being one of two sheets. Application is made by the Township of Brick as contract purchaser of certain properties owned by the

*File 2
Twp of Brick
Kennedy
Birdsall
Dwyer
Cunley
Bldg
Eng. 2
Zoning
Tax Assessor*

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Winding River Condominium Association, Inc. who has by their execution of the subdivision map joined in the application. The purpose of the application is to allow a subdivision of property owned by the condominium association but not being utilized for existing condominiums, so that it might be conveyed to the Township of Brick which is the adjacent landowner. The adjacent properties owned by the Township of Brick are part of a civil project that includes the nineteenth century Havens Homestead, Dealamann Farm and Cultural Center. The addition of this land, which is unneeded and unutilized by the condominium association, would benefit the public in terms of the possible expansion of the historical, cultural and recreational purposes of the Township property. The Board finds that these purposes do so advance the purposes of zoning that there is sufficient substantive reason for the granting of the variances that are to be described hereinbelow. Further that the nature of these public purposes is such that the variances if granted would not do substantial detriment to the zone plan, zoning ordinance or public good.

4. Lynch, Giuliano and Associates prepared a report to the Board dated September 10, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

5. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated October 13, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

6. Richard E. Garnett, L.S., P.P., Municipal Surveyor, prepared a report to the Board dated September 14, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

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7. The following variances are sought by reason of the subdivision of existing Lot 7 and the consolidation of a part of it with existing Lot 6 so as to form proposed Lot 6.01. The balance of Lot 7 will be reconstituted as new Lot 7.02. Proposed Lot 6.01 will have 24.73 acres, whereas 25 acres is required in the R-M zone, wherein part of the lot is located. Proposed Lot 7.02 will be left with a side yard of 28.53 feet, whereas 50 feet is required. It will also have a front yard setback of 30.23 feet, whereas 50 feet is required. The side yard setback from an existing accessory structure on proposed Lot 6.01 will be 20.84 feet, whereas 25 feet is required. The Board finds that for the reasons given hereinabove, these variances are nominal. The variances would not require any change in structures but merely reflect the superimposition of new lines on existing structures. For these reasons and those given above, it is determined that the variances sought may be granted.

8. The applicant seeks waivers for drawing scales of 1 inch to 100 feet and 1 inch to 60 feet, wherein 1 inch to 50 feet is required. Given the large physical nature of the lots for which application is sought and the clarity with which the existing plans can be read, it is determined that it is reasonable to grant this waiver; not to do so would render an unnecessary hardship on the applicant.

The applicant further seeks waivers for the provision of curbing and sidewalks on Herbertsville Road as well as shade trees on Herbertsville Road. There are no curbs and sidewalks on the northerly side of Herbertsville Road. The area is also well treed. For these reasons it is appropriate to grant these waivers. Waivers are also sought from meeting the requirement to provide mean high water elevations for adjacent Manasquan River and Saw Mill Creek. Given the fact that the proposal has no impact on either of

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these water bodies, it is appropriate to grant this waiver for to do otherwise would render an unnecessary hardship on the applicant.

9. The applicant has complied with the requirements of the subdivision ordinance and the overall development plan for the property is consistent with the intent and purpose of the Municipal Zoning Ordinance and Master Plan. The Board finds that the benefits of the proposed subdivision outweigh any detriments and the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Township Zoning Ordinance or Master Plan for the reasons given hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Township Planning Board on this 13th day of October, 1999, that this application be approved subject to the following conditions:

1. The applicant shall comply with all standard Planning Board conditions for minor subdivision approval as set forth on Attachment "A".

2. The applicant shall comply with all representations and agreements made by the applicant or its attorney during the presentation of this case.

3. The applicant shall comply with the following paragraphs contained in the report of Lynch, Giuliano and Associates dated September 10, 1999: 4, 5, 6, 7, 8, 11, 12, 13 and 14.

4. The applicant shall comply with paragraph IIB. contained in the report of Michael P. Fowler, AICP/PP, Municipal Planner, dated October 13, 1999 which must be agreed to by the Winding River Condominium Association.

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5. The applicant shall comply with the comments contained in the report of Richard E. Garnett, L.S., P.P., the Municipal Surveyor, dated September 14, 1999.

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MOVED BY:

Mrs. Paxton

SECONDED

BY:

Mr. Petoia

VOTING IN THE

AFFIRMATIVE:

Mr. Cevasco

Mrs. LaDuke

Mrs. Paxton

Mr. Petoia

Mr. Bayard

VOTING IN THE

NEGATIVE:

DISQUALIFIED FROM VOTING:

Mr. Reilly

INELIGIBLE TO

VOTE:

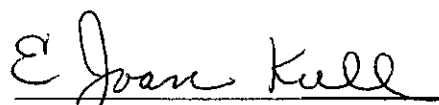
ABSTAINING:

ABSENT: Mrs. Fox Mr. Kelly Councilman Underwood Mr. Palmieri Mr. Scherer

CERTIFICATION

I, **E. JOAN KULL**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that the foregoing resolution was duly **ADOPTED** by the said Planning Board of the Township of Brick at a regular meeting held on the 13th day of October, 1999.

IN WITNESS WHEREOF, I have set my hand this 18th day of October , 1999.


E. JOAN KULL
Clerk of the Planning Board

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR MINOR SUBDIVISION APPROVAL

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1. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Brick Township Planning Board for approval of that change.
2. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this Resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.
3. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
4. Applicant shall furnish a duplicate mylar of the filed map, certified by the applicant's engineer, to the Township Engineer.
5. Applicant shall post a bond for the setting of monuments in accordance with the map filing law in an amount to be determined by the Township Engineer. Further, the applicant shall post an inspection fund for the verification of compliance with this requirement in an amount to be determined by the Township Engineer.
6. No soil shall be removed from the site without the written approval of the Township Council.
7. The applicant shall comply with all provisions and pay all fees established under Article VB (Mandatory Development Fees) of Chapter 190 of the Code of the Township of Brick.

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8. The applicant or any successor shall provide one maximum size trash container unit identical with those used for other residences in the Township of Brick for each lot. Said container shall be provided at the time the building permit is issued and the cost of the total required number of containers shall be a part of the bond to be provided for as hereinabove required.

9. For all residential uses the subdivider or site plan applicant shall provide for a trash receptable.

10. In order to insure uniformity of trash receptacles and compatibility with the automatic trash collection system, all trash can receptacles required herein shall be obtained from the Township of Brick.