

PB
BA
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MD

PB17-09
**TOWN OF WESTFIELD
APPLICATION**

Review 8/24/17

I. Identification:

This appeal is from (applicant's name) Colin Jenkins and Midori Nagai

142 Linden Avenue, Westfield NJ 07090

(telephone) PII

(fax) _____

for property in Westfield, NJ located at (street address) 142 Linden Avenue, Westfield NJ

II. To: (check one)

☒ Planning Board

☐ Board of Adjustment

Board Secretary: Ms. Kathy Nemeth 908-789-4100 extension 4602

Both Boards: 959 North Avenue West, Westfield, NJ 07090:

FAX 908-789-4113

III. For a Hearing For: (Check all applicable)

Specific Applicable Sections of the Westfield L.U.O. for:

Submission Requirements Checklists

Procedures

☒ *C variances	4.03A, 9.02, 9.03, 9.11	4.04, 7.01C, 7.01D, 8.03, 8.04, 8.06, 8.13, 8.14
☐ *D variances	4.03A, 9.02, 9.03, 9.11	4.04, 7.01C, 7.01D, 8.03, 8.04, 8.06, 8.13, 8.14
☐ Conceptual Site Plans & Subdivisions	9.04	8.07
☒ Minor Site Plan	9.02, 9.03, 9.08	8.06, 8.08, 8.13, 8.14, 8.23
☐ *Preliminary Major Site Plan	4.03C, 9.02, 9.03, 9.09	4.04, 8.04, 8.06, 8.10, 8.13, 8.14, 8.19, 8.23
☒ Final Major Site Plan	9.02, 9.03, 9.10	8.06, 8.11
☒ Minor Subdivision	9.02, 9.03, 9.05	8.01, 8.06, 8.09, 8.13, 8.14, 8.23
☐ *Preliminary Major Subdivision	4.03D, 9.02, 9.03, 9.06	4.04, 8.01, 8.04, 8.06, 8.10, 8.13, 8.14, 8.19, 8.23
☐ Final Major Subdivision	9.02, 9.03, 9.07	8.06, 8.11
☐ **Conditional Use	9.02, 9.03	4.04, 8.06, 8.13, 8.14
☐ *Structure in street, drainage way, flood basin, reserved area	4.03F, 7.01E2	4.04, 7.01E, 8.04, 8.06, 8.13, 8.14
☐ *Structure on lot not abutting street	7.01F2	4.04, 7.01F, 8.04, 8.06, 8.13, 8.14
☐ *Board of Adjustment "a" appeal/ administrative officer error	7.02B2 & 3	7.02A & B, 8.04, 8.06, 8.13, 8.14
☐ *Board of Adjustment "b" appeal/ interpretation ordinance/map	4.03B, 7.02C1 & 2 & 3	4.04, 7.02A & C, 8.04, 8.06, 8.13, 8.14
☐ Residential cluster	9.02, 9.03, 9.06, 8.12, 11.03F	8.13, 8.14

***Public noticing is required pursuant to Section 4.03 & 4.04 ** A major site plan review is also required with a conditional use application**

IV. Application Description: Briefly describe the nature and scope of this application, including proposed uses and improvements. All subdivision appeals must state the present and proposed number of lots.

Applicant is seeking to subdivide Block 2204, Lot 15 into two lots (Lot 15.01 and Lot 15.02) of equal size both having an area of at least 9,370 square feet. Applicant proposes to remove the existing two and a half story frame dwelling and replace with two new construction homes. Applicant seeks the following variance:

1. 11.07E1: Minimum gross lot area. The proposed subdivided lots each have a lot area of 9,370 sq. ft. which is 630 sq. ft. or 6.3% less than the required minimum lot area.
2. 11.07E2: Minimum lot area within first 143 ft of depth. The proposed subdivided lots each have a lot area of 9,370 sq. ft. in the first 143ft of depth which is 630 sq. ft. or 6.3% less than the required minimum lot area.

Notwithstanding the above variance, the subdivision and any subsequent construction on the new proposed lots shall be in accordance with the zoning ordinance and regulations for RS-10 zone and shall conform to the appearance of the neighborhood.

V. Reasons: Briefly summarize the reasons why you believe this appeal should be granted.

Applicant seeks to remove the existing two and a half story residential dwelling and subdivide the lot in two equal lots that are compatible with the neighborhood. The existing lot is oversized in relation to the neighborhood and two lots are more conforming with the overwhelming majority of the properties in the neighborhood.

VI. Property Description: Please provide the following information about the property, which is the subject of this appeal.

•Enclose a scaleable (full size) copy of a location survey of the property; showing the surveyors name and license number, and date of survey, if this information is not otherwise provided on a site plan or subdivision plat. Survey can be no more than 2 years old.

•Street address 142 Linden Avenue

Zone district RS-10 Block No. 2204 Lot No. 15

•Dimensions of lot 150 x 125 Area of lot 18,740 sq. ft.

•Use of premises present residential dwelling
proposed residential dwelling

The proposed use is: ☒ permitted by ordinance ☐ a conditional use which has been granted by the Planning Board or Zoning Board of Adjustment ☐ a use permitted by variance ☐ a nonconforming (i.e. "grandfathered") use ☐ not a permitted use

Name of Owner Colin Jenkins Telephone No. PII
Street address of Owner 142 Linden Avenue, Westfield, New Jersey 07090

•Does the above owner also own any property that abuts the subject property?

☒ No ☐ Yes If yes, address: _____

If yes, is the abutting property subject to the Loechner-Campoli rule of merger? ☐ No ☐ Yes (If you don't know, check with the Tax Assessor in the Municipal Building.)

•Are there any present deed restriction(s) which affect this property? ☒ No ☐ Yes If yes, attach copy of deed, including language of restriction(s).

•Are there any pending proceedings, concerning the property which is the subject of this application, before any federal, state, or local board of authority? ☒ No ☐ Yes If yes, list here and attach a brief description of each.

VII. Attorney Identification: Private individuals, or sole proprietors may represent themselves (i.e. present the application) before the Board. All other categories of applicants must be represented by an attorney. (reference: 1998 Cox - pages 477 & 478)

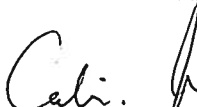
If applicant (or owner) is to be represented by an attorney, please furnish the following information:

Attorney's name James M. Foerst Telephone No. 973-258-9200
Attorney's firm Spector Foerst and Associates Fax. No. 973-285-0666
Street address 159 Millburn Ave. Millburn NJ 07041

VIII. Notarization:

I/We, the undersigned applicant(s) do hereby grant permission for the members of the Planning Board, and the Zoning Board of Adjustment, their Attorney and the Zoning Officer of the Town of Westfield, NJ to enter upon the property which is the subject of this application, during all daylight hours during the pendency of this application. Permission to enter structures will be given for a mutually agreeable time.

I hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true and correct.


Signature of Applicant (in the presence of a Notary)

Print Name : Colin Jenkins

Address: 142 Linden Avenue
Westfield, New Jersey 07090

Home phone PII

Business phone _____

Sworn and Subscribed to
before me this July
day of 2017

Notary Public **JAMES M. FOERST**
Attorney-at-Law
State of New Jersey
NJID # 1999-02826

IX. Do not write in the following spaces:

TO BE COMPLETED BY THE ZONING OFFICER:

- To the best of my knowledge and belief, this application is complete and correct.
- This application is currently the subject of a:
 - Zoning violation notice, No. , copy enclosed.
 - Municipal Court complaint, docket No. , copy enclosed.
 - Other pending action, (describe)
 - None of the above

Signature

TO BE COMPLETED BY THE BOARD SECRETARY:

Has there been any previous appeals(s) involving these premises?

[] No [] Yes If yes, attach copies of resolution(s)

TO BE COMPLETED BY THE COMPLETENESS DESIGNEE:

Application accepted as complete on _____

Signature

TOWN OF WESTFIELD

LIST OF EXISTING NON-CONFORMING ZONING CONDITIONS

Section 7.01B Review of existing non-conforming conditions in connection with applications for variances or for the direction of the issuance of certain permits.

In reviewing applications for variances or for the direction of the issuance of certain permits, the Board shall determine whether any existing non-conforming conditions involving the subject property will exacerbate, intensify, alter, affect or in some way result in a significant impact on the proposed use, structure or land. If the Board finds that no substantial impact or detriment will result, the Board shall so state in its findings of fact in the resolution for the application, without the need for such existing non-conforming conditions to meet the criteria established by N.J.S.A. 40:55D-34, 36, 51a, 51b, 70c and 70d and this ordinance for variances or exceptions. If the Board finds that substantial impacts or detriments will result, however, the application shall not be approved unless and until the applicant agrees to mitigate or eliminate such impacts or detriments to the maximum extent feasible.

The above shall not be construed to alter the review procedures not the criteria for granting variances or exceptions for violations proposed by the development or existing illegally on the subject property.

Note: This list must be consistent with the Variance Table, if otherwise required.

1.	Section: None	Nature of Deficiency:	
	Permitted:	Present:	Proposed:

TOWN OF WESTFIELD

LIST OF NEW C.40:55D-70 c AND d VARIANCES REQUESTED

SECTION 9.02: GENERAL REQUIREMENTS; SUPPORTING DOCUMENTATION

In addition to the submission requirements for the individual categories of applications in the following sections, all categories of applications, except for conceptual site plans and conceptual subdivisions, shall be required to submit a statement indicating all of the provisions of the Land Use Ordinance from which a waiver or variance is sought.

Note: This list must be consistent with the Variance Table, if otherwise required.

1.	Section: 11.07E1	Nature of Deficiency: Minimum Gross Lot Area	
	Permitted: 10,000 9,370	Present: 18,740	Proposed:
2.	Section: 11.07E2	Nature of Deficiency Minimum lot area within first 143 ft. of depth	
	Permitted: 10,000 18,740	Present: 18,740	Proposed:

**TOWN OF WESTFIELD
UNION COUNTY NEW JERSEY**

AFFIDAVIT OF OWNERSHIP

I, Colin Jenkins, of full age, being duly sworn
(Print Name)

according to law, do hereby certify that I am the (check one) owner or duly authorized officer of the owner (as listed on the application form), of the following property which is the subject of the within application to the Westfield Planning Board or Zoning Board of Adjustment:

Block & Lot (s) Block 2204, Lot 15

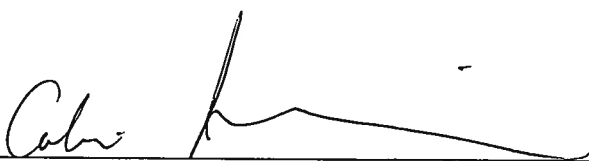
Street Address(es) 142 Linden Avenue, Westfield

Check one:

1. ~~XXXXXX~~ As the owner (or officer of), I am the Applicant in the within application.
2. _____ As the owner (or officer of), I am not the Applicant. I certify that I have reviewed and consent to the within application and that the information contained herein is true and correct to the best of my knowledge. I authorize the following entity/individual to act as the Applicant in making this application:

a. Authorized Individual/Entity: _____

b. Authorized Individual/Entity Interest in Property (i.e., Tenant, Contract Purchaser): _____



(Signature of Owner/Officer of Owner)

Sworn and subscribed to
before me on this 11th
day of July, 2017.

Notary Public **JAMES M. FOERST**
Attorney-at-Law
State of New Jersey
NJID #: 1999-02826





TOWN OF WESTFIELD

PLANNING BOARD

December 5, 2017

James Foerst, Esq.
Spector Foerst & Associates
159 Millburn Avenue
Millburn, NJ 07041

Re: PB 17-09
Colin Jenkins & Midori Nagi
142 Linden Avenue

Dear Mr. Foerst:

Enclosed herewith please find a copy of the resolution memorialized and adopted by the Westfield Planning Board at its meeting on December 4, 2017.

Please review the resolution to ensure that the final set of plans comply with all conditions of the resolution, and submit four (4) copies of the final plans for signature by the Board Chairman, Secretary and Town Engineer. After obtaining the required signatures, a copy of the plans will be returned to you.

Be advised that notification of the memorialization was e-mailed to the Westfield Leader today for publication in their next edition.

Sincerely,



Linda Jacus
Administrative Secretary

Enclosure

cc: James H. Gildea, Town Administrator
Tara Rowley, Town Clerk
Ann Switzer, Tax Assessor



959 North Avenue West, Westfield, New Jersey 07090

www.westfieldnj.gov

Telephone: (908) 789-4100 Fax: (908) 789-4113

RESOLUTION
PLANNING BOARD TOWN OF WESTFIELD
APPLICATION NO. PB 17-09
APPLICATION OF COLIN JENKINS AND MIDORI NAGAI
142 LINDEN AVENUE
BLOCK 2204 LOT 15

WHEREAS, Colin Jenkins and Midori Nagai (the "Applicant") has applied to the Planning Board of the Town of Westfield for minor subdivision, with variance relief, on property known as 142 Linden Avenue, also designated as Lot 15, Block 2204 on the Tax Map of the Town of Westfield (the "Property"), in accordance with Minor Subdivision Plans prepared by Murphy Hollows Associates LLC of Lot 15 Block 2204 142 Linden Avenue and Saunders Avenue dated September 27, 2017; and

WHEREAS, the Planning Board held a public hearing on October 2, 2017 at which time it took action on the Application, and this Resolution constitutes a resolution of memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g); and

WHEREAS, after considering all of the evidence presented by the Applicant, the Planning Board has made the following factual findings and conclusions:

1. In connection with its site plan application, the Applicant seeks approval of the Application as detailed on the Minor Subdivision Plans prepared by Murphy Hollows Associates LLC of Lot 15 Block 2204 142 Linden Avenue and Saunders Avenue. The property is located in the RS10 Zone. The Applicant seeks approval of the following variances from the sections of the Land Use Ordinance of the Town of Westfield:

a) Section 11.07 E. 1 which requires a minimum lot area of 10,000 square feet, whereas the proposed lot area for proposed lots 15.01 and 15.02 is 9370 square feet.

b) Section 11.07 E. 2 which requires a minimum lot area within 143' of lot depth (interior lot) of 10,000 square feet, whereas the proposed lot area for proposed interior lot 15.02 is 9370 square feet.

c) Section 11.07 E. 2 which requires a minimum lot area within 125' of lot depth (corner lot) of 10,000 square feet, whereas the proposed lot area for proposed corner lot 15.01 is 9370 square feet.

d) Section 11.07 E. 2 which requires a minimum lot width (corner lot) of 80 feet, whereas the proposed lot width for the corner lot 15.02 is 75 feet.

e) Section 11.07 E. 3 which requires a minimum lot frontage (corner lot) of 80 feet, whereas the proposed lot frontage for the corner lot 15.02 is 75 feet.

2. The Planner's review letter discussed the previous application on this property which only included variance requests from lot area standards for proposed lot 15.02, the interior lot. The current application increases the lot area of the lot 15.02 to equal the other lot. As a result, there are variances from lot area and lot width/frontage requirements for proposed lot 15.01, the corner lot.

3. James Foerst, Esq. appeared on behalf of the Applicant and provided a summary of the application and provided the history of the previous application. The first witness was William Hollows who testified as Professional Engineer. He testified as to the existing conditions. He discussed that the existing building would be demolished, property subdivided and two new homes constructed. He testified as to the bulk requirements. Mr. Hollows indicated that the corner lot would be placed on Linden Avenue instead of on Saunders Avenue to avoid the cutting down of the tree on the corner. The change of the driveway was visually described to the Board and the public. The public discussed the fact that there are no other corner properties with driveways on Linden Avenue.

4. Paul Grygiel, Professional Planner who testified regarding the master plan, land use and zoning ordinances. He testified as to the neighborhood lot sizes, stating that of the 14 lots in block 2204 only three comply with the 125 x 75 lot size requirements. 11 of 14 lots do not comply. Across the street, the lots are more conforming and require 150 by 75 lot size. The application is not seeking a hardship but a C2 variance for special reasons. He testified that the purpose advanced is not outweighed by the detriments; there was no negative impact to light or noise and no substantial detriment to the Master Plan. He testified to the positive criteria including the pattern of the lots are very much in line with what presently exists on Linden Avenue. Positive criteria of health safety and welfare is supported by the consistence of scale in the size of lots and dwellings. The proposed lots and dwellings are more in line with what exists presently. He also testified regarding the lot areas on the block. He also testified about the different zones in the area. He concluded that the variances are warranted.

5. Mr. Ralph Rapuano, Jr., the proposed builder of the property. The proposed homes which are not guaranteed, were discussed. He said he tried to understand the neighborhood after the withdrawal of the previous application. He testified that he is interested in maintaining the character of the neighborhood. He explained that the reason for the driveway on Linden was because of the keeping of the tree which was a major concern in the last application. The architect, Michael Mortiz testified before the Planning Board. He provided a summary of the type of homes to be built on the lots including the features, setbacks and size. He testified that he was interested in maintaining the character of the older homes in town. He also testified that the homes would be smaller than permitted by ordinance. The Board made it clear that the homes discussed are not part of the application but rather planned homes by this builder in the event the subdivision is permitted and further, it was made clear that there is no guarantee that the particular homes discussed would be built.

5. There was a discussion from the public and the Board of the driveway within 75 feet

5. There was a discussion from the public and the Board of the driveway within 75 feet of intersection and that the additional driveway on Linden Avenue. There was a house by house discussion of the driveway locations. There was discussion regarding the benefit to change lot width to 75 feet to continue the pattern of the street lot size. There was discussion of benefit of having two homes have the same size as opposed to the previous application where one home was larger. The massing of one larger home which could be built on the lot as opposed to two smaller homes. A larger home would be approximately 5600 square feet which the builder will not build. That house would have to be built facing Saunders Avenue because of the width of the house. There was a resident who was critical of the Applicant's desire to have two homes and alleging that the reason for the two homes was purely economic. The Board pointed out that if there was one home built the Board and its committees would not have any say on the type and design of the one home. Also, the public was advised that the Board cannot take into account the potential profit to be received by the Applicant in this particular application. There was also discussion of effect on the tree and need for tree preservation approval. Public comment also included issues of traffic and pedestrian safety regarding the driveway placement on Saunders or on Linden. The Architectural Review Committee should be presented with plans for driveways on Linden Avenue and with one on Linden Avenue and the other on Saunders Avenue for numerous reasons including design, location of other corner lot driveways and potential safety issues.

5. The Planning Board reviewed the Minor Subdivision Plan, with variance approval and the testimony presented by the witnesses and the public. The Application should be conditioned on the approval of the Tree Preservation Commission and the other conditions set forth below. The owner of Lot 14 requested a 15 foot side yard setback which the Owner/Applicant agreed to implement. The Planning Board discussed this matter at length and the driveway locations and decided that it would be beneficially to have the builder provide alternative plans with the driveways in both locations. There was additional discussion of appearing before the Architectural Board. The Applicant would not stipulate to the driveway of the corner lot to be on Saunders Avenue.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Town of Westfield on this 4th day of December 2017, that the Application of Jenkins and Nagai for minor subdivision with variance approval is approved for the reasons stated above, subject to the following conditions:

1. The Applicant will submit a Tree Plan to the Tree Preservation Commission for review and approval.

2. The Applicant agrees to comply with the letter of Donald B. Sammet, PP/AICP, Town Planner dated September 27, 2017 and with agreement to provide a 15 foot side yard setback to Lot 14.

3. The Applicant shall comply with the Look Alike provisions in the Land Use Ordinance section 12.11 and the architectural design of the homes shall be reviewed by the Architectural Review Committee. The Applicant shall be presented with plans

depicting both driveways on Linden Avenue and with plans depicting one driveway on Linden Avenue and the other on Saunders.

4. The Applicant shall submit deeds perfecting the subdivision to the Planning Board prior to filing with the Union County Clerk's Office. The Applicant shall comply with all applicable ordinances, regulations, codes and law.

A handwritten signature in black ink, appearing to read "Kris McAloon", written over a horizontal line.

Kris McAloon, Secretary

Dated: December 4, 2017