

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF
ADJUSTMENT OF THE TOWNSHIP OF EAST GREENWICH, COUNTY OF
GLOUCESTER, STATE OF NEW JERSEY, GRANTING APPROVAL OF AN
AMENDED PRELIMINARY MAJOR SUBDIVISION, AMENDED FINAL
MAJOR SUBDIVISION, AND BULK VARIANCE, TO M & R BUILDERS,
INCORPORATED, A/K/A BRYSON'S VILLAGE, REGARDING PROPERTY
LOCATED ON COUNTY HOUSE ROAD AND BEING FURTHER SHOWN AS
BLOCK 1602, LOTS 2.03 THROUGH 2.11 ON THE TAX MAPS OF THE
TOWNSHIP OF EAST GREENWICH, APPLICATION NO.: 2003-13A**

WHEREAS, Application No. 2003-13A, (the "Application"), was filed before the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey (the "Board") for approval of Amended Preliminary Major Subdivision, Amended Final Major Subdivision, and Bulk Variance, to M & R Builders, Incorporated, A/K/A Bryson's Village, 10 Cedar Road, Mickleton, New Jersey 08056 (the "Applicant") regarding property located on County House Road (the "Subject Property") and being further shown as Block 1602, Lots 2.03 through 2.11 on the Tax Maps of the Township of East Greenwich (the "Township"); and

WHEREAS, the Applicant did appear at a meeting and public hearing held on the Application on April 15, 2008 at 7:00 P.M., time prevailing, and at said time did the following appear: Ronald J. Venuto, President of M & R Builders, Incorporated; Lance B. Landgraf, P.P., A.I.C.P., Senior Project Planner, Marathon Engineering and Environmental Services, Incorporated, 5 South Third Street, Hammonton, New Jersey 08037 (the Applicant's professional planner); and Clint B. Allen, Esquire, Archer & Greiner, P.C., Attorneys at Law, One Centennial Square, Haddonfield, New Jersey 08033-0968 (the Applicant's attorney); and

WHEREAS, Mr. Landgraf, having never appeared before the Board previously, provided his background, academic, licensing and professional experience/credentials, at which time it was stipulated by the Board, without objection, that Mr. Landgraf was a professional planner licensed in the State of New Jersey and was qualified to testify as an expert in the field of professional planning on behalf of the Applicant, after which were Messrs. Venuto and Landgraf sworn and provided testimony on the Application;

NOW, THEREFORE, BE IT RESOLVED by the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, as follows:

FINDINGS OF FACT

1. The Application had been deemed to be complete by the Board. Accordingly, the Board had jurisdiction to act on the Application.

2. The Applicant submitted and the Board entered into the record the following:

A. Application, Application Fee, Escrow Agreement, Escrow Deposit, Certified List of Property Owners within 200 ft. of the Subject Property, Notice of Public Hearing, Affidavit of Service, Affidavit of Publication, and Certification of Taxes Paid on the Subject Property.

B. A single sheet entitled Bryson's Village Design Guidelines - March 3, 2008, attached to which was a booklet containing numerous colored photographs entitled: "Bryson's Village, Block 1602, Lot 2, County House Road, East Greenwich Township, Gloucester County, New Jersey, Updated: March 3, 2008, Section Added, Chantilly Model with Attached Garage". Also included in said booklet was a section of the East Greenwich Tax Map showing the Subject Property and properties adjacent to the Subject Property.

C. "Bryson's Village, Block 1602, Lot 2, County House Road, East Greenwich Township, Photos Provided by Ragan Design Group". The same incorporated ten photos that had been provided by the Board's former professional planner to the Applicant and the Board at the time of the original Preliminary/Final Major Subdivision approval, to "Reflect examples of Residential Architecture that is in keeping with the standards as defined in the ordinance". (See item # 4 of Ragan letter dated 09/10/03).

3. Mr. Allen, on behalf of the Applicant, reviewed background information regarding the prior approvals granted to the Applicant, and the purpose of the present Application. On September 19, 2006, the East Greenwich Township Planning Board granted Final Major Subdivision Approval and on October 17, 2006, adopted Resolution No. 2006-26(R) memorializing said approval so as to allow for the development of the Bryson's Village residential development consisting of nine (9) single-family residential lots and related site improvements on $4.76 \pm$ acres of land, located along County House Road, within a Kings Highway Historic ("HD") Zoning District, owned by the Applicant, and more particularly known as Block 1602, Lots 2.03 through 2.11 on the Official Tax Map of East Greenwich. The Applicant now requests a modification of a previous condition of approval, so as to allow attached garages that will serve the single-family homes in Bryson's Village that are not at the rear of the main residential building, together with any and all other approvals, variances, waivers, ordinance interpretations, *de minimus* exceptions, and / or any other relief deemed necessary by the Planning Board to allow the Applicant's proposed use and development of the Subject Property.

4. Mr. Venuto provided testimony regarding background information on the project entitled "Bryson's Village". Mr. Venuto entered into the record "Exhibit A-1, M & R, 4/15/08" which consisted of colored photographs of the single model house constructed in Bryson's Village at 200 Bryson's Way; a subdivision plan of the Bryson's Village subdivision; a section of the East Greenwich Township Zone Map indicating the Subject Property in relationship to the Historic Zone District; a zoning map for East Greenwich Township showing both the Historic District and the Rural Kings Highway District; a survey of Lot 2.03 within Bryson's Village showing the current location of the model home and driveway serving the same; and a revised concept of the model home if the garage were to be attached to the side of the home, with the accompanying driveway being shortened as a result thereof.

5. Mr. Venuto provided lengthy testimony regarding his inability to sell homes within the Bryson's Village subdivision because of a prior condition of approval imposed by the Board that required that garages be detached from the homes, and that said garages be located in the rear back yard area and set back from the rear plane of any homes constructed thereon. At that time, it was determined by the Board that such a condition would bring the proposed houses more in conformance with the design standards in the Kings Highway Historic District. Subsequent to that time, Mr. Venuto pointed out that purchasers of new homes do not want detached garages. In particular, Mr. Venuto indicated that homeowners wanted attached garages for safety and security purposes so that they could park their car in the garage, and then enter their home without leaving the garage. This convenience factor was further desired by prospective purchasers so that the homeowner would be able to avoid any inclement weather when going their garage into the home. Mr. Venuto also pointed out that detached garages that are located to the rear plane of a home, require a greater length of concrete driveway thereby increasing the impervious coverage on the property. In addition, Mr. Venuto testified that homeowners objected to a garage in the rear of a home since it took up too much of the rear yard space of the home, thereby eliminating a portion of the rear yard that might otherwise be used for recreational purposes, gardening, landscaping, pools, and so forth. Mr. Venuto set forth his efforts to market the Subject Property with detached garages, and his experience with other developments in East Greenwich, as supporting his testimony that detached garages are not desirable.

6. The Board's professional planner, Leah Furey, P.P., A.I.C.P., BACH Associates, PC, 304 White Horse Pike, Haddon Heights, New Jersey 08035, reviewed with the Applicant and the Board her letter of April 10, 2008. Ms. Furey did not object to having garages attached to the sides of the homes in Bryson's Village, however, she recommended that in order to create more of a distinction between the garage and the house to which the two were attached, that a 5 ft. setback between the front plane of the garage and the front plane of the main portion (not including porch) of the house being accomplished. The Applicant agreed to comply. In addition, Ms. Furey pointed out that in accordance with section 16.72.J, parking is prohibited between the front of the house and the street, unless the frontage is 250 ft. or greater and the parking is part of a curvilinear drive. Ms. Furey noted that the Applicant was requesting a bulk variance and/or design waiver, whichever was appropriate, from this requirement given the nature

of the changes sought in terms of allowing the garages to be attached to the main building.

7. The Board's professional engineer, Martin S. Sander, P.E., C.M.E., Federici & Akin, P.A. Consulting Engineers, 307 Greentree Road, Sewell, New Jersey 08080 reviewed with the Applicant and the Board his letter of April 11, 2008 regarding the Application. Mr. Sander pointed out that the change of the garage to be attached to the house might impact the grading for each of the lots. The Applicant pointed out that the Applicant was required to submit a grading plan for each lot at such time as building permits were obtained, and at said time the Township's engineer would be able to determine whether or not the grades as planned for each lot were appropriate.

8. Mr. Landgraf testified on behalf of the Applicant as to why the variances and/or design waiver should be granted so as to permit garages to be attached to the side of the homes in Bryson's Village. In particular, Mr. Landgraf testified that such an amendment would advance the purposes of the Municipal Land Use Law in that it would provide homes for a variety of residential uses. In addition, Mr. Landgraf testified that the change as requested by the Applicant would shorten the driveways on each lot thereby lowering the amount of impervious coverage on each lot. In addition, Mr. Landgraf testified that in his expert professional opinion, the request of the Applicant if granted would provide for greater safety for residents since they would have a direct entryway into their homes through their garages. This would also result in larger back yards that were appropriate for homes to provide for greater amenities; that the proposed change would enhance the amount of recreational amenities that could be afforded on each lot; and that there would be no substantial detriment since the original intent of the Kings Highway Historic Zone District was to address homes to be located along Kings Highway. Mr. Landgraf pointed out that none of the fronts of the homes within the Bryson's Village development could be seen from Kings Highway.

9. The hearing on the Application was opened to the public, at which time no member of the public present spoke either in favor of or opposed to the Application.

CONCLUSIONS

1. The Board concluded that approval of Amended Preliminary Major Subdivision and Amended Final Major Subdivision should be granted on the basis that the change to the plan of subdivision to permit the garages on each residential lot be attached to the home was in keeping with good planning and the wishes of prospective purchasers of homes. The Board also concluded that the benefits of having the garages attached to the homes were significant in that it provided for a greater safety and security for residents, as well as decreasing the amount of impervious coverage by way of a

reduced driveway, as well as allowing homes in the Subject Subdivision to have more area in the rear yards for the purpose of recreational and other amenities.

2. The Board also concluded that a grant of the required variance and/or design waiver to accomplish the relocation of the garages was consistent with the general intent of the Zone Plan, and, in particular, did not create a substantial detriment given the Applicant's agreement to set back the garages at least 5 ft. from the front plane of the homes for aesthetic purposes.

CONDITIONS

1. The Board presumes that the Applicant's Application, all exhibits, maps and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that the Application, exhibits, maps and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

2. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

3. The Applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Borough pursuant to N.J.S.A. 40:55D-12.c., and publication of the notice of public hearing in this matter in accordance with the law.

4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

6. The Applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The Applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

7. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein.

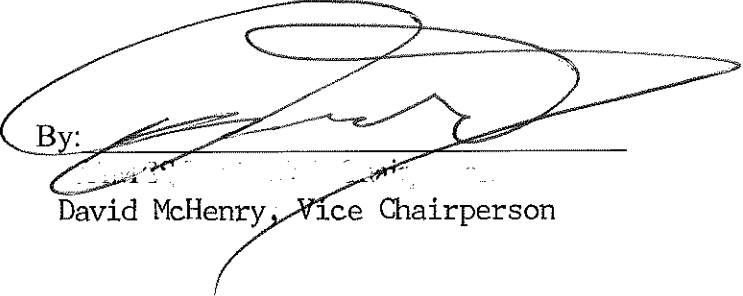
8. The Applicant agrees to comply with all prior resolutions of approval regarding the previously granted Preliminary Major Subdivision and Final Major Subdivision applications that are not otherwise inconsistent with the relief being granted herein.

WHEREUPON a motion was made by Board member Faramelli (Alternate Member # 1), which was seconded by Board member Schmidt, to grant Amended Preliminary Major Subdivision Approval, Amended Final Major Subdivision Approval, and Approval of Bulk Variance and/or Design Waiver, to the above referenced Applicant, in consideration of the understandings, agreements, and stipulations as also set forth above, at a meeting of the Combined Planning/Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, held on April 15, 2008 at 7:00 P.M., time prevailing, with the following Board members voting in favor of the motion: Grant, Garozzo, Outten, Carfagno, Schmidt, Axelson, Watson, Faramelli (Alternate Member # 1) and Mitchell (Alternate Member # 2). The following Board members were absent: Schweigart, Mc Henry, and Pool (Alternate Member # 3). Alternate Member # 4, Giordano, Jr., was present and participated in the hearing but did not vote. There were no votes in the negative and no abstentions or recusals

THIS RESOLUTION WAS ADOPTED at a regularly scheduled meeting of the East Greenwich Township Combined Planning/Zoning Board of Adjustment at a on May 20, 2008 at 7:00 P.M., time prevailing, as a memorialization of the action taken by the

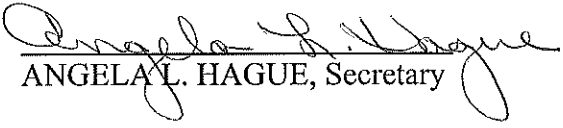
Board on the above referenced Application, as cited herein, at the Board's April 15, 2008 meeting and public hearing.

**EAST GREENWICH TOWNSHIP COMBINED
PLANNING/ZONING BOARD OF ADJUSTMENT**

By: 

David McHenry, Vice Chairperson

ATTEST:


ANGELA L. HAGUE, Secretary

CERTIFICATION

I hereby certify that the foregoing resolution is a true copy of a resolution adopted at a regularly scheduled meeting of the Combined Planning Zoning Board of Adjustment of the Township of East Greenwich, County of Gloucester, State of New Jersey, held on the 20th day of May, 2008 at the Township Municipal Building, 159 Democrat Road, Mickleton, New Jersey 08056 at 7:00 PM, time prevailing, as a memorialization of the action taken by the Board on the above cited Application at the Board's April 15, 2008 meeting and public hearing.


ANGELA L. HAGUE, Secretary