

MINOR SUBDIVISION APPROVAL

Elizbeita Targonska

Block: 831, Lot 29

1640 Harvard Avenue

Resolution: R-21-2021

Application No. PB-2865-MS-C-9/20

Date: May 26, 2021

**RESOLUTION OF MEMORIALIZATION OF THE
BRICK TOWNSHIP PLANNING BOARD
MINOR SUBDIVISION WITH VARIANCE**

WHEREAS, Elizbeita Targonska, having a mailing address of 611 10th Avenue, Belmar, New Jersey 07719, has made application to the Brick Township Planning Board for minor subdivision with variance approval pursuant to N.J.S.A. 40:55D-47 and 40:55D-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, public hearings were held on March 24, 2021 and continued to April 14, 2021 in the Brick Township Municipal Building and virtually via Zoom at which time testimony was given and certain exhibits hereinafter described were presented on behalf of the applicant, and all interested parties having had an opportunity to be heard; and

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

1. The applicant is proposing to subdivide existing Lot 29, Block 831 into two (2)

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Appl.
Jackson
WSB/morgan
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Assessor, Eng., TP.

new residential lots.

2. The property is located in the R-7.5 Single-Family Residential Zone.

3. The applicant was represented by John J. Jackson, III, Esquire, of King, Kitrick, Jackson, McWeeney & Wells, LLC, who produced the testimony of Mr. Frank Baer, Jr., P.E., P.P. of WSB Engineering Group, P.A, who qualified both as an expert in professional engineering and professional planning.

4. The applicant seeks a variance for lot area where 9,000 sq. ft. of area is required for corners lots and 7,500 sq. ft. is proposed. A variance is also requested from the requirement (§245-39.1) that sidewalks and curbing be provided, but none are proposed. In addition, the applicant has requested a waiver from the requirement in §245-10 to provide street trees and shrubs, but none are proposed.

5. During the course of the testimony, certain exhibits were presented and marked into evidence: Exhibit A-1 PowerPoint presentation.

6. The Board received from its professional staff two February 12, 2021 reports from Donald H. Parks, Jr., ME, PE of Adams, Rehmann and Heggan Associates, Inc., the Planning Board's engineer; February 1, 2021 report of Elissa C. Commins, PE, PP, CME, CFM, Township Engineer; March 5, 2021 report from Tara B. Paxton, MPA, PP, AICP, Township Planner; and a January 22, 2021 report of Kevin C. Batzel, Bureau Chief/Fire Marshal, Brick Township Bureau of Fire Safety. These reports are received into evidence and shall continue to be maintained as a part of the Planning Board's file.

7. After being sworn, Mr. Baer testified that the property is located at 1640 Harvard Avenue in the Forge Pond neighborhood of Brick Township. The proposed

subdivision to create two lots meets all the bulk requirements of the zoning ordinance with the exception of lot area for the corner lot proposed to be created. The ordinance requires 9,000 sq. ft. of corner lot area and only 7,500 sq. ft. is proposed. The property is currently vacant; it had a single-family residence located on it, but same was removed in 2016. Mr. Baer testified that there were two lots known as Lots 31 and 32 when the original map was filed for this area in approximately 1932. The zone is an R-7.5 zone and the one existing lot is currently 150 ft. by 100 ft. The proposal is to create two 7,500 ft. by 100 ft. buildable lots. Mr. Baer testified that there are single family residences in the area and most of the lots are 50 ft. wide not 75 ft. wide. Utilizing slide 2 of the power point presentation, Mr. Baer testified there were no curbs or sidewalks in the entire area and thus the reason for the request for the variance for same. The property can be serviced by way of public water and public sewer with the one proposed lot to connect to a water main on Harvard while the other lot would connect to a water main on Edge.

8. In response to Ms. Paxton's inquiries in her report as to why the proposal is to create one conforming and one non-conforming lot, Mr. Baer opined that the existing tract is 15,000 sq. ft. and thus oversized. The only variance sought is for the corner lot area. He testified that creation of these lots would lead to an appropriate population density in furtherance of the purposes of municipal zoning. On the corner lot, Mr. Baer indicated the applicant will provide a sight triangle easement to the Township. He further stated his opinion that it was a better zoning alternative to have two 7,500 sq. ft. lots instead of one 15,000 sq. ft. lot in this neighborhood. A larger house on that size lot would be totally out of character for the neighborhood. In

furtherance of the variance, he testified that granting of the variance would advance the purposes of zoning pursuant to N.J.S.A. 40:55D-70 (c)(2) inasmuch as same would be consistent with the neighborhood, it would provide adequate light, air and open space inasmuch as no bulk setback variances would be requested. Moreover, this would lead to an appropriate population density. He further testified that there were no negative effects on the zone plan and zone scheme and because of the sight triangle easement and the setbacks being met, he felt that this proposal met all of the criteria in the zoning ordinance. Moreover, he testified that the proposed residence would be appropriate in size. On behalf of the applicant, Mr. Baer acquiesced to contribution to the Pedestrian Safety Fund in lieu of the provision of sidewalks and curbing if the variances therefor are granted.

9. In addressing the ARH report, Mr. Baer indicated the plans would be revised to comply with the technical recommendations in the ARH report. In addition, Mr. Baer testified that the applicant would comply with the recommendations regarding road restoration.

10. Mr. Baer indicated that the proposed residences on these two lots, if approved, would have 3 to 4 bedrooms, with two or three off-street parking spaces. Each proposed residence would have a one-car garage and two parking spaces in the driveway. There is also the possibility that the residences as designed could provide for a two-car garage. In all respects, Mr. Baer testified that the applicant would comply with the RSIS requirements concerning off-street parking. Mr. Baer likewise testified that the applicant would comply with stormwater management requirements. He indicated that the plan had already received Ocean County Planning Board approval and was awaiting

Brick Township MUA approval.

11. In further addressing Ms. Paxton's report, the applicant and Ms. Paxton recognized that there were no curbs or sidewalks in the area and the closest curbing and sidewalk was on Route 88. As to concerns regarding trees, Mr. Baer noted that the trees to be removed would be located, but requested that the specific tree removal should be referred to the plot plan stage.

12. Mr. Baer noted that the Fire Safety report accepted the application and Ms. Commins' engineering report provided for no comments regarding same.

13. The hearing was opened to members of the public. Mrs. Mindy Murray of 1622 Forge Pond Road indicated she was a resident of the area for 40 years. She stated that Mr. Baer's testimony was correct, but she opposed the application. She inquired as to the size of the houses proposed and argued that the owner of the property knew that two lots would be undersized when she purchased the property. She also testified to ponding of rainwater on the street. Mr. Baer indicated that the proposal would not affect or increase the ponding or runoff onto the street. Mr. Giovanni Mistretta of 1611 Edge Street, stated that in 1991, lots 37 and 38 were subdivided. He also submitted Exhibit O-1, two photographs showing street flooding. He too wanted to review proposed residences on the property. Mr. Ray Komantz of 1621 Edge Street opposed the application indicating he did not believe that the recharge systems would work. Mr. Dale McLean of 566 Parker Avenue in Brick also opposed the application. An email was received from Mr. John Dunne likewise objecting to the application.

14. The Board discussed whether the applicant should provide architectural to

show the proposed houses that could be constructed on these two lots if created by way of the subdivision. Based on a straw poll, the Board requested the applicant provide architectural plans and the matter was carried to the April 14, 2021 hearing date for the applicant to provide same.

15. The matter was continued on the April 14, 2021 hearing date and architectural renderings were submitted by the applicant along with a revised development plan. Same showed the recharge system. Mr. Giovanni Mistretta again testified and played for the Board a video of the surrounding area. Again Mr. John Dunne questioned the application and Mrs. Mindy Murray likewise again opposed the application. Mr. Anthony Massaro of 1628 Tilford Boulevard opposed the application and inquired as to the requirements for corner lots being larger than interior lots to which Ms. Paxton rendered an explanation. Mr. Ray Komantz also again opposed the application.

16. After hearing from all of the witnesses and the applicant's experts, the Board concluded that there would be no adverse impact on stormwater runoff inasmuch as the application shall handle all stormwater runoff on site and all bulk ordinance requirements were met with the exception of one for the corner lot.

17. After considering the testimony of the applicant's engineer and the comments and recommendations from the Board's professional staff, the Board accepts the testimony proffered on behalf of the applicant in support of this request for a minor subdivision with variances and waiver as noted above.

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board on this 26th day of May, 2021 that the application for minor subdivision approval with

variances is hereby **GRANTED** subject to the following conditions:

1. The plan shall be revised to incorporate the technical revisions requested by way of the Board engineer's reports as referenced above.

2. The applicant must submit proof of payment of all currently due taxes to the Brick Township Planning Board and shall pay all real property taxes through and including the calendar quarter of the date of this Resolution.

3. The applicant must post all bonds and guarantees as required and recommended by this Board and the Township Engineer. Moreover, the applicant must post all required engineering and inspection fees, and shall further provide any and all necessary performance guarantees and enter into any and all necessary developer's agreements as required by law.

4. All representations and statements made by the applicant, as well as the applicant's representatives, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review on this Board's own motion.

5. In the event the Planning Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that event any approvals previously given may be rescinded and any improvements at the time in place on the premises in question shall not be in compliance with the ordinances of the Township of Brick.

6. In the event there is an existing violation, the applicant shall have thirty

(30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time prescribed will result in the issuance of a summons.

7. The applicant must comply with all conditions outlined in Schedule A attached hereto.

8. The applicant shall apply for and receive approvals from all other municipal, county, state and federal agencies having regulatory jurisdiction over this development as may be required.

BE IT FURTHER RESOLVED that the Planning Board Secretary shall cause notification of this favorable Resolution to be published in an official newspaper of the Brick Township within ten (10) days of the adoption of this Resolution.

Certified copies of this Resolution shall be forwarded to the applicant, the Township Construction Official, Zoning Officer and all other parties in interest.

R-21-2021
PB-2865-MS-C 1/2021
ELZABEITA TARGONSKA

May 26, 2021

VOTE ON MEMORIALIZATION

MOVED BY: Mr. Aiello

SECONDED BY: Mr. Philipson

VOTING IN THE AFFIRMATIVE: Mr. Clayton, Mr. Philipson, Mr. Fagen, Mr. Ward,
Mr. Osipovitch, Mr. Aiello, Mr. Cooke

VOTING IN THE NEGATIVE

INELIGIBLE TO VOTE: Councilman Mummolo, Mr. Occhiogrosso

PRESENT BUT NOT VOTING:

ABSTAINING:

ABSENT: Mr. Nugent

CERTIFICATION

I, Pamela O'Neill, Secretary to the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that I am duly authorized to certify Resolutions. I certify that the foregoing Resolution was adopted by the Planning Board of the Township of Brick at a regular meeting held on the 26TH of May 2021



Pamela O'Neill, Secretary
Planning Board/Zoning 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 to date of this resolution and as of the date of the fulfillment of any conditions 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.

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 VI (Mandatory Development Fees) of Chapter 245 of the code of the Township of Brick.

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 provided for as hereinabove required.

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

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.