

BRICK, TOWNSHIP
OF
(PLANNING AND ZONING DEPT.)



LDS BR-PZ 10403327

BRICK TOWNSHIP PLANNING BOARD
MINOR SUBDIVISION APPROVAL
WITH VARIANCES AND DESIGN WAIVERS

RESOLUTION R-70-02

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Case No. PB-2394-MS-V-12/01

August 14, 2002

WHEREAS, JAMES SULLIVAN, having a mailing address of 68 Nejecho Drive, Brick, New Jersey, 08723, has applied to the Brick Township Planning Board for minor subdivision approval 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 July 10, 2002 in the Municipal Building, at which time testimony and exhibits were presented on behalf of the applicant, and all interested parties having been heard.

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

1. This property is known and designated as Block 99, Lots 1 and 55, on the Municipal Tax Map.

2. The property is located in the R-7.5 Single Family Residential Zone. The property is located on the Metedeconk River on the westerly side of Nejecho Drive, approximately 600 feet southwest of its intersection with Lagoon Drive.

3. The applicant proposes to reconfigure the common lot line in between existing Lots 1 and 55 so that frontage of Lot 1 will increase by ten feet, and frontage of Lot 55 will decrease by ten feet. Existing Lot 1 contains 8030 sq. ft. and is vacant. Existing Lot 55 contains 8000 sq. ft. and is developed with an existing single-family dwelling and detached garage.

4. The proposed minor subdivision is shown on plans entitled, "Minor Subdivision, Lots 1 and 55, Block 99. (Tax Map Sheet No. 1401) Township of Brick,

FILE 2
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Ocean County, New Jersey," dated 10/31/01, consisting of one (1) sheet, as prepared by J. V. Morgan Engineering and Surveying.

6. Birdsall Engineering prepared a report to the Board dated June 20, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

7. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated July 9, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

8. Richard E. Garnett, L.S., P.P. prepared a report to the Board dated June 27, 2002. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

9. Applicant has sought variances for:

- a) lot width on new Lot 1 of fifty feet (50'), whereas seventy-five feet (75') are required;
- b) front yard setback on new Lot 55 of twenty-two point forty-three feet (22.43'), whereas twenty-five feet (25') are required;
- c) accessory side yard for new Lot 55 of three point nine feet (3.9') whereas five feet (5') are required;
- d) accessory rear yard setback for new Lot 55 of four feet (4') whereas five feet (5') are required;
- e) per section 190-22, no lot frontage at right of way line should be less than forty feet (40'); and new Lot 1 would have frontage at twenty-five point ninety-two feet (25.92') at right of way line.

The location of existing house on new Lot 55 remains the same. Applicant has proposed that the house to be constructed on new Lot 1 would be approximately 2100 sq. ft. with an attached garage. Applicant further advised that they believed this application, and the proposed new house, would enhance the neighborhood—

and would advance the purposes of the municipal land use ordinance, with the benefits outweighing the detriments. These variances are reasonable. The proposal is a substantial upgrading of the area and presents a better zoning alternative to the status quo of one existing dwelling on an oversized lot. The variances are therefore granted.

10. Design waivers are required as follows:

(a) In accordance with Section 190-207, sidewalks and curbs are required on all municipal streets. No curbs and sidewalks are proposed. None are needed as they do not generally exist in the area and therefore this waiver may be granted as a *de minimis* exception.

(b) In accordance with Section 190-259, one (1) shade tree is required for every 2,500 square feet of lot area plus one (1) additional tree. Street trees are also required. This waiver of shade and street trees may be granted.

(c) In accordance with Sections 190-207H and 190-215C, a right-of-way dedication is required along Nejecho Drive. In order to meet the 50' requirement, an eight point five foot (8.5') dedication would be required; applicant does not provide for same. Applicant advises that such a dedication is not necessary.

11. With the exception of the variances and design waivers granted hereinabove, the applicant has complied with the requirements of the minor subdivision ordinance. The plan is consistent with the intent and purpose of the Master Plan and the Municipal Development Ordinance. Accordingly the Board finds that the benefits of the proposed development 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.

NOW, THEREFORE, BE IT RESOLVED by the Township Planning Board on this 14th day of August, 2002, 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 June 20, 2002: 4, 5 (a through a through e), 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19.
4. The applicant shall comply with the following comments contained in the report from Michael P. Fowler, A.I.C.P./P.P. dated July 9, 2002: V. Comments: A, B.
5. The applicant shall comply with the comments contained in the report from Richard E. Garnett, L.S., P.P. dated June 27, 2002.

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MOVED BY:

Mr. Scherer

SECONDED BY:

Mr. Aiello

VOTING IN THE AFFIRMATIVE: Mr. Kelly, Mrs. LaDuke, Mr. Aiello, Mr. Dockery, Mr. Petoia,

Mr. Scherer

VOTING IN THE
NEGATIVE:

INELIGIBLE TO VOTE:

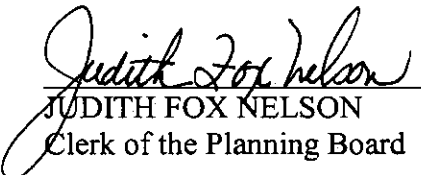
ABSTAINING:

ABSENT: Councilman Underwood, Mr. Reilly, Mr. Vespi, Mr. Fredo, Mr. Higgins

CERTIFICATION

I, **JUDITH FOX NELSON**, 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 14th day of August, 2002.

IN WITNESS WHEREOF, I have set my hand this 15th day of August, 2002.


JUDITH FOX NELSON
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.