

RESOLUTION
ANDOVER TOWNSHIP LAND USE BOARD
IN THE MATTER OF ALMA LANE ASSOCIATES, LLC
DECIDED ON April 7, 2015
MEMORIALIZED ON MAY 19, 2015
MINOR SUBDIVISION APPROVAL

WHEREAS, Alma Lane Associates, LLC is the owner of property known and designated as Lot 2 in Tax Block 156 on the Tax Assessment Map of the Township of Andover; and

WHEREAS, John Mroz is the owner of property known and designated as Lot 2.02 in Tax Block 156 on the Tax Assessment Map of the Township of Andover; and

WHEREAS, John Mroz consents to the filing of this application for minor subdivision approval regarding Lot 2 and 2.02 in Block 156 on the Tax Assessment Map of the Township of Andover; and

WHEREAS, a public hearing was held on April 7, 2015 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Bernd E. Hefele, Esq.

NOW, THEREFORE, the Andover Township Land Use Board (“Board”) makes the following findings of fact based on evidence presented at its public hearing, at which a record was made.

The application before the Board is a request for minor subdivision approval in order to adjust the lot lines currently separating Lots 2 and 2.02 in Tax Block 156. Testifying on behalf of the Applicant was Kenneth Dykstra, P.E, P.P and L.S. Mr. Dykstra is a licensed professional engineer, professional planner and land surveyor in the State of New Jersey. Mr. Dykstra introduced into evidence exhibit A-1 which was identified as a lot development exhibit dated

March 3, 2015. Mr. Dykstra explained that exhibit A-1 was a colorized version of the plans submitted to the Board.

Mr. Dykstra explained that existing Lots 2 and 2.02 are located in the R-2.0 zone district (single family residential zone). The minimum lot area in the R-2.0 zone is 87,000 square feet. Existing Lot 2 has a lot area of 429,074 square feet (9.850 acres) and existing Lot 2.02 has an existing lot area of 53,703 square feet (1.233 acres). The Applicant intends to reconfigure the lot lines so that proposed Lot 2 will be reduced in lot area from 429,074 square feet to 248,537 square feet (5.706 acres). Proposed Lot 2.02 will see an increase in lot area from 53,703 square feet to 234,422 square feet (5.382 acres). At the current time, Mr. Dykstra explained that Lot 2 conforms to the bulk requirements in the R-2.0 Zone, but Lot 2.02 is an undersized lot. The approval of this subdivision will enable Lot 2.02 to be increased in lot area so as to be a fully conforming lot within the R-2.0 zone district. Lot 2 will continue to remain a fully conforming lot within the R-2.0 Zone.

The Applicant proposed access for both proposed Lots 2 and 2.02 off of Huntsville Road. In order to improve the proposed sight distance, the Applicant proposes access to proposed Lot 2 to be through proposed Lot 2.02 by means of an access easement. The Applicant is also proposing two driveways as opposed to a common driveway with an access point onto Huntsville Road. The Applicant and the Board engaged in an extensive discussion in regard to the benefits and detriments of having a common driveway as opposed to having separate driveways with access off of Huntsville Road.

The Applicant produced a witness, Robert Brandon, a licensed Real Estate Broker in the area who testified in support of the proposed driveway configuration consisting of two (2) separate driveways.

Mr. Dykstra also testified that the driveway locations for each residence on proposed Lots 2 and 2.02 were the most appropriate locations to place the driveways for sight distance on Hunstville Road. Also, in regard to Lot 2.02, the driveway configuration would allow access to the front of the house and not the rear of the house.

Mr. Dykstra also testified that Lot 2 is developed with a single family dwelling and is serviced by a septic system and a private well and that the proposed dwelling on Lot 2.02 will similarly be serviced by a private well and septic system.

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Land Use Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Land Use Board is a request for minor subdivision approval in regard to Lots 2 and 2.02 in Tax Block 156 on the Tax Assessment Map of the Township of Andover, which properties are located in the R-2.0 Zone District.

The Applicant seeks minor subdivision approval in order to reduce the area of Lot 2 from 429,074 square feet (9.850 acres) to 248,537 square feet (5.706 acres). As a result, Lot 2.02 will see a corresponding increase in lot area from 53,703 square feet (1.233 acres) to 234, 422 square feet (5.382 acres). The subject properties are located in the R-2.0 zone district which requires a minimum lot area of 87,000 square feet. Currently, existing Lot 2.02 is a non-conforming lot in regard to lot area. Upon approval of this minor subdivision, both Lot 2 and 2.02 will now be fully conforming with the bulk standards in the R-2.0 Zone.

The Board also understands that Lot 2 is developed by a single family dwelling serviced by a septic system and a private well and that the proposed dwelling on Lot 2.02 will

also be serviced by a private well and septic system. Both lots will have access directly onto Huntsville Road.

The Board understands that the Board Engineer has opined that the existing and proposed lots present difficulties with adequate sight distance in accordance with the Township driveway ordinance. As a result, in order to improve the proposed sight distance, the Applicant proposed access to proposed Lot 2 to be through proposed Lot 2.02 by means of an access easement. The Land Use Board accepts the representations of the Applicant's professionals that the proposed driveway location is an appropriate location with respect to providing an adequate sight distance for traffic on Huntsville Road. The Board finds that the Applicant has proposed safe and efficient means of ingress to and egress from Huntsville Road. In addition, the Board also accepts the representations of the Applicant's professionals that the proposed driveway location for access to proposed Lot 2 through proposed Lot 2.02 by means of an access easement will permit access to the front of the house and not the rear of the house, which is a desirable benefit. The Board also finds that the approval of this application will eliminate a non-conforming lot and will result in 2 lots being more conforming to the bulk requirements in the R-2.0 Zone.

The Board also accepts the representations of the Applicant through its professionals that the Applicant will provide sealed or revised soil logs regarding soil permeability test results and a certification that the lots can support a septic disposal system. Furthermore, the Applicant stipulated that it would comply with the additional comments section, items 1-6 of the Board Engineers Review Report dated February 22, 2015.

Upon consideration of the plans, testimony and application, the Board determines that the proposed minor subdivision/lot line adjustment application has met the minimum requirements

of the Municipal Land Use Law, case law and Township Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board that the application of Alma Lane Associates, LLC for property known and designated as Lots 2 and 2.02 in Tax Block 156 on the Tax Assessment Map of the Township of Andover requesting land use relief is determined as follows:

- A. Minor subdivision approval is granted pursuant to the Municipal Land Use Law under N.J.S.A. 40:55D-47.

IT IS FURTHER RESOLVED that the above approvals are granted subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.
2. The Applicant shall comply with any terms and conditions contained in a review report prepared by Golden Davies & Associates dated February 22, 2015, as well as any other terms and conditions imposed by the Land Use Board or the Board's professionals at the time of the hearing.
3. The Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicant shall record the subdivision Deed within 190 days of the memorializing resolution being adopted. Failure to do so shall render this approval null and void.
4. The Applicant represents that all of its representations and stipulations made either by the Applicant or on its behalf to the Township of Andover Land Use Board are true and accurate and acknowledges that the Land Use Board specifically relied upon said stipulations in

the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.

5. This approval is granted strictly in accordance with any recommendations set forth on the record by the Land Use Board at the time of the hearing on April 7, 2015.

6. The granting of this application is subject to and conditioned upon the Applicant providing soil permeability test results and a certification that the lots can support a septic disposal system in accordance with N.J.A.C. 7:9A.

7. The granting of this application is subject to and conditioned upon the Applicant providing an easement agreement with a metes and bounds description rider in regard to the driveway access to proposed Lot 2 through proposed Lot 2.02 which shall be subject to the review and approval of the Board Attorney and Board Engineer.

8. The granting of this application is subject to and conditioned upon the Applicant obtaining a formal driveway permit prior to the issuance of any building permits. The Applicant should also provide all relevant information as required in Section 45, Driveways, at the time of the application for a driveway permit.

9. The granting of this application is subject to and conditioned upon the Subdivision Deeds including a requirement that the property owner for proposed lot 2.02 shall be responsible to maintain the proposed drainage improvements in accordance with N.J.A.C. 7:8.

10. The granting of this application is subject to and conditioned upon the Applicant paying the mandatory Development Fee pursuant to Andover Township Ordinance 190-32.2, if required.

11. The granting of this application is subject to and conditioned upon the Andover Township Tax Assessor assigning and/or confirming the lot numbers for the lots which form the basis of this subdivision application.

12. The granting of this application is subject to and conditioned upon Sussex County Planning Board approval, if required.

13. The granting of this application is subject to and conditioned upon Sussex County Soil Conservation District approval, if required.

14. The granting of this application is subject to and conditioned upon New Jersey Department of Environmental Protection approval including a Letter of Interpretation (LOI), if required.

15. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

16. Certificate that taxes are paid current to date of approval.

17. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Andover, County of Sussex, State of New Jersey or any other jurisdiction.

The undersigned Secretary certifies the within Resolution was adopted by this Land Use Board on April 7, 2015 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on May 19, 2015.

Suzanne Howell, Chairperson

Anne-Marie Wilhelm
Land Use Administrator/Board Secretary

IN FAVOR:

AGAINST:

ABSTAINED:

BOARD MEMBERS ELIGIBLE TO VOTE:

913693_3 AND-044E Alma Lane Associates Resolution Granting Minor Subdivision/Lot Line Approval with Ancillary "c" Variance Relief