

**RESOLUTION
OF THE
LAKEWOOD TOWNSHIP PLANNING BOARD**

SD# 1918

**RESOLUTION OF THE PLANNING BOARD OF
THE TOWNSHIP OF LAKEWOOD, COUNTY OF
OCEAN, STATE OF NEW JERSEY APPROVING A
MINOR SUBDIVISION APPLICATION WITH
ASSOCIATED VARIANCES AND WAIVERS FOR
PROPERTY LOCATED ON PINE STREET, ALSO
KNOWN AND DESIGNATED AS BLOCK 774.04,
LOT 14.01 FOR SHAUL HALPERN**

WHEREAS, Shaul Halpern has made application to the Lakewood Township Planning Board for minor subdivision approval with associated variance and waiver relief for Block 774.04, Lot 14.01 as shown on the Lakewood Township Tax Maps; and

WHEREAS, the Lakewood Township Planning Board conducted a plan review meeting on December 10, 2013 and a public hearing on said application on February 18, 2014; and

WHEREAS, the Lakewood Township Planning Board has reviewed the application, documents, plans and exhibits as submitted and having listened to the applicant and the applicant's experts and after having received information from its professional staff, the Lakewood Township Planning Board does hereby make the following findings of fact and law:

A. The applicant seeks minor subdivision approval to allow for the subdivision of one existing lot into two lots to be known as new lots 14.03 and 14.04. Proposed new lot 14.03 would maintain frontage along Pine Street and proposed new lot 14.04 would have limited frontage along Ashley Avenue. A one-story frame dwelling and

shed currently exist on the subject property. All existing improvements at the site would be removed except for the shed which would be relocated.

B. The subject tract is approximately 0.795 acres in area and is situated in the central portion of Lakewood Township on the north side of Pine Street, east of its intersection with Dr. Martin Luther King Drive. The surrounding area is predominately residential. The subject site is also located within the R-10 Single-Family Residential Zone wherein detached dwellings are a permitted use.

C. In addition to the minor subdivision, the applicant is also seeking the following variance relief:

1. Minimum Side Yard Setback: 10 feet is required whereas 7.5 feet is proposed for new lot 14.03.

2. Minimum Aggregate Side Yard Setback: 25 feet is required, whereas 15 feet is proposed for new lot 14.03.

The applicant also seeks a submission waiver from the provision of site features.

The board granted the requested waiver for completeness purposes only and waives this requirement until compliance when the applicant will submit a Topographic Survey and Improvement Plan.

D. Terence Vogt, P.E., P.P., CME of Remington, Vernick & Vena Engineering, prepared an engineering and planning review letter to the board dated January 14, 2014 which is attached hereto as Exhibit A. The board hereby adopts the findings in that letter and incorporates the same by reference. All conditions in that letter not expressly waived are hereby made conditions of approval.

E. The board reviewed certain maps and other materials in support of this application as specifically outlined in Mr. Vogt's review letter together with an exhibit marked for identification and entered into evidence by the applicant without objection labeled as A-1 consisting of the map originally submitted with the application.

F. At the public hearing, the applicant was represented by Abraham Penzer, Esquire who presented the testimony of Brian Flannery, P.E., the project engineer. Mr. Flannery was recognized as an expert in the field of engineering and his testimony was credited by the board as accurate. Based upon the representations and testimony provided by the applicant and/or the applicant's professionals, the board made the following findings of fact:

1. This application represents the subdivision of one existing lot into two lots that are conforming as to size and area.

2. The applicant originally proposed to create two lots, one consisting of 24,000 square feet with the other consisting of 10,600 square feet. The applicant has amended its plan now to provide for two lots, one consisting of approximately 12,000 square feet and the other consisting of approximately 21,000 square feet.

3. The requested variance relief relates to the proposed side yard setback for the lot fronting along Pine Street. The lot lines are not perpendicular which reduced the net width of the newly created lot.

4. A new dwelling is proposed to be constructed on new lot 14.03. No development is currently planned for new lot 14.04.

5. The applicant would agree to comply with all comments contained within the engineering review letter attached hereto as Exhibit A.

G. Members of the public were provided an opportunity to ask questions and comment upon the application; however no one appeared to offer either comment or objection.

WHEREAS, after reviewing the testimony provided by the applicant and its experts, and after reviewing the application, maps and exhibits as provided, and after offering an opportunity for comment from any interested members of the public, the board discussed the merits of the granting of this application and so makes the following conclusions of law:

H. The applicant's request for minor subdivision approval has met the requirements of 40:55D-47. The proposed use of the site is an approved use and is consistent with the area in which the site is located.

I. With regard to the applicant's request for variance approval, the board finds that the applicant's proposal furthers the purposes of the Municipal Land Use Law by encouraging the development of appropriate uses, including residential, in appropriate areas. With regard to the applicant's request for variance approval, the board finds that the same can be granted pursuant to N.J.S.A. 40:55D-70C (2). The variances requested permit upgraded housing within an area particularly suited for residential development which would improve and modernize the existing neighborhood. Accordingly, the board finds no detriments associated with this proposal and that the grant of the same will not impair the intent and purpose of the Lakewood Township Zone Plan and Zoning Ordinance and will not be a substantial detriment to the public good.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Lakewood, on this 18th day of February, 2014 that the applicant's request for minor subdivision approval with associated variances along with certain waivers not expressly denied hereinabove or waived until compliance, is hereby granted subject to the terms and conditions of the engineering and planning review letter, subject to the representations made by the applicant and its professionals at the public hearing and the plan review meeting and subject to the conditions set forth herein; and

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded by the Planning Board Secretary, to the Applicant's Attorney, the Township Clerk and the Building Department; and

BE IT FURTHER RESOLVED that notification of this favorable approval be published in an official newspaper of the Lakewood Township Planning Board by the Planning Board Secretary within 10 days of its passage; and

BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

1. The applicant shall comply with all representations made before the Planning Board, by the applicant and/or its attorney and its expert(s). In the event that the resolution does not embody any stipulations that were made by the applicant or its witnesses and/or experts during the hearing or by the board in approving the motion, those stipulations shall nevertheless be applicable. It shall be the responsibility of the applicant to comply with all stipulations and conditions made at the hearing.

2. If required, applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with

N.J.S.A. 4:24-39 et seq., commonly known as the “Soil Erosion and Sediment Control Act.”

3. All materials, methods of construction and details shall be in conformance with the current engineering and building requirements of the Township of Lakewood, which are on file in the office of the Township Engineer.

4. 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 Lakewood Township Planning Board for approval of that change.

5. 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.

6. Applicant shall provide a statement from the Lakewood 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.

7. **Prior to the issuance of a construction permit**, the applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.

8. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.

9. Unless specifically modified herein, the applicant shall comply with all terms and conditions of all prior resolutions of the Lakewood Township Planning Board regarding this application.

10. The applicant shall reimburse the Lakewood Township Planning Board for all professional fees extended or expended with regard to this application.

11. The applicant shall comply with all the provisions of the engineering and planning review letter of Remington, Vernick & Vena Engineering dated January 14, 2014 (Exhibit A), or unless specifically modified by the motion at the meeting wherein the Board approved the application.

13. The applicant shall comply with the Lakewood Township Tree Ordinance.

14. The applicant shall remove or relocate any and all of the existing encroachments of the subdivision boundaries.

15. The subdivision shall be perfected either by a deed clearly defining said approval or by plat in accordance with the Map Filing Law.

CERTIFICATION

I hereby certify that I, the undersigned, am the secretary of the Planning Board of the Township of Lakewood, County of Ocean, State of New Jersey and I hereby certify that the foregoing Resolution was adopted by the Planning Board of the Township of Lakewood at a regular meeting held on the 18th day of February, 2014 and memorialized at the meeting held on March 18, 2014.



ALLY MORRIS, SECRETARY
Lakewood Township Planning Board

EXHIBIT A

Engineering and Planning Review Letter from
Remington, Vernick & Vena Engineering
dated January 14, 2014

REMINGTON & VERNICK ENGINEERS AND AFFILIATES

EDWARD VERNICK, PE, CME, President
CRAIG F. REMINGTON, PLS, PP, Vice President

EXECUTIVE VICE PRESIDENTS

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Edward J. Walberg, PE, PP, CME
Thomas F. Beach, PE, CME
Richard G. Arango, PE, CME

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January 14, 2014

Ally Morris
Planning Board Administrator
Lakewood Township Planning Board
231 Third Street
Lakewood, New Jersey 08701

**Re: Shaul Halpern – Revised Submission
Minor Subdivision with Variances
Block 774.04, Lot 14.01; Pine Street
R-10 (Single-Family Residential Zone)
RVV File #1515-P-480
Application # SD-1918**

Dear Planning Board Members:

We have reviewed a revised submission for the above referenced application, consisting of the following items:

FWH Associates, P.A.

<u>Sheet</u>	<u>Title</u>	<u>Date/Last Revised</u>
1 of 1	Survey of Property (Anthony B. Koval, P.L.S.)	12-12-12
1 of 1	Minor Subdivision (Anthony B. Koval, P.L.S.)	12-20-12/12-24-13

- Copy of Township Deputy Tax Assessor new lot numbers approval, dated November 1, 2013.
- Lakewood Township Planning Board Application.
- Point by point response letter prepared by FWH Associates, P.A., signed by Vincent Hatt, and dated December 24, 2013.

Project Description

The applicant proposes to subdivide the existing tract, Lot 14.01 in Block 774.04, into two (2) separate lots. There is an existing one-story frame dwelling and a frame shed on the existing lot. The plans indicate all existing structures within the subdivision are to be removed and the existing shed to be moved. Proposed Lot 14.03 would become a 10,628 square foot irregular lot fronting on Pine Street. Proposed Lot 14.04 is to be subdivided from the rear (northern) portion of the property, which lot will have limited frontage on Ashley Avenue, a partially improved street. This proposed lot would become a twenty-four thousand square foot (24,000 SF) irregular lot. Public water and sewer is available.

The site is situated in the central portion of the Township on the north side of Pine Street, east of its intersection with Doctor Martin Luther King Drive. The surrounding area is predominantly residential. Pine Street is an improved municipal road that has an existing right-of-way width of sixty-six feet (66'). Curbing and sidewalk in fair condition exist along the property frontage. Potable water exists under the north side of the street. Sanitary sewer exists under the centerline of the road. There is overhead electric on the south side of the right-of-way.

The northeast corner of the tract also has limited frontage (half the right-of-way width) on the terminus of Ashley Avenue. Ashley Avenue is a partially improved municipal road that has an existing right-of-way width of fifty feet (50'). A dead end stub of Ashley Avenue, south of Wynatt Street almost extends to the site. Potable water exists under the sidewalk on the west side of the stub. There is a new trench for an underground gas line in the west side of the pavement. Overhead electric exists within the east side of the right-of-way. The closest sanitary sewer manhole was observed on Ashley Avenue, north of Wynatt Street.

Most of the existing 0.795 acre property falls within a valley. There are many small trees on the site. The tract is located in the R-10 Single Family Residential Zone. Variances are requested to create this subdivision.

We have the following comments and recommendations per testimony provided at the 12/10/13 Planning Board Plan Review Meeting and comments from our initial review letter dated December 4, 2013:

I. Waivers

1. The applicant has requested submission waivers from providing Site Features in accordance with the Land Development Checklist. ***Our office has no objection to the granting of these waiver requests for completeness purposes provided a Topographic Survey and Improvement Plan are submitted prior to compliance review, if/when Board is granted. The applicant agrees with this condition. The Board shall take action on the requested submission waivers.***

II. Zoning

1. The property is located within the R-10 Single-Family Residential Zone District. Single-family detached dwellings are a permitted use in the zone. **Statements of fact.**
2. Proposed Lot 14.04 is to be subdivided from the rear (northern) portion of the property. This lot will have limited frontage, half right-of-way width, on the terminus of Ashley Avenue, which is a partially improved street. The street condition appears to meet the requirements of a "Public Street" as defined per Subsection 18-200 B of the Lakewood UDO. **Statements of fact.**
3. The following variances are being requested for proposed Lot 14.03:
 - Minimum Side Yard Setback – seven and a half feet (7.5') proposed, ten feet (10') required – proposed condition.
 - Minimum Aggregate Side Yard Setback – fifteen feet (15') proposed, twenty-five feet (25') required – proposed condition.

The Board shall take action on the variances being requested.

4. The applicant must address the positive and negative criteria in support of the requested variances. ***At the discretion of the Planning Board, supporting documents will be required at the time of Public Hearing, including but not limited to aerials and/or tax maps of the project area and surroundings to identify the existing character of the area.***

III. Review Comments

1. Environmental Constraints Mapping indicates the possibility of freshwater wetlands on this site. Per communications with the applicant's professionals, the applicant agrees to provide wetlands assessment by a qualified professional as a condition of approval, if/when granted. **Statements of fact.**
2. The Survey shows numerous encroachments, chain link fence, driveway, and shed, which must be rectified with any approvals. The Minor Subdivision indicates the shed to be moved. Per communications with the applicant's professionals, these issues will be addressed during compliance, if approval is granted. **Statements of fact.**
3. The applicant must demonstrate that the proposed Lot 14.04 can be serviceable by emergency and public vehicles such as garbage trucks. **Statement of fact.**
4. The General Notes indicate that four (4) off-street parking spaces are to be provided for each future dwelling. The plan proposes four (4) off-street paved spaces for the future dwelling on Lot 14.03. A proposed dwelling is not shown for new Lot 14.04. The applicant should provide testimony detailing the number of bedrooms for the proposed dwelling on new Lot 14.03, as well as the number proposed to be built eventually on

new Lot 14.04 to have the parking requirement on the record. Parking must be provided to the satisfaction of the Board. **Statements of fact.**

5. Testimony should be provided as to whether basements will be proposed for the future dwellings on the proposed lots. If basements are proposed, seasonal high water table information will be required. **Statements of fact.**
6. The portion of proposed Lot 14.04 that fronts on Ashley Avenue should be dimensioned to demonstrate that access to the property can be achieved when Ashley Avenue is completely improved. **The revised plan shows a skewed frontage distance of 26.68 feet across the half right-of-way width of Ashley Avenue.**
7. The subdivision is located within the franchise area of New Jersey American Water Company. The plan should indicate that public water and sewer are to be provided. **General Notes can be added for resolution compliance submission should approval be granted.**
8. There is an existing ten foot (10') wide shade tree and utility easement across the frontage of old Lot 14.01. This existing easement would continue on proposed Lot 14.03. Unless a waiver is granted, shade trees shall be proposed, as well as a shade tree and utility easement added along the property frontage of new Lot 14.04. **The applicant's professionals indicate that shade trees and the easement will be provided with resolution compliance submission should approval be granted.**
9. Landscaping should be provided to the satisfaction of the Board, and should conform to recommendations (if any) from the Township Shade Tree Commission as practicable. **The Board should provide landscaping recommendations, if any.**

Our site investigation indicates there are many existing small trees on the property. This development, if approved must comply with the Township Tree Ordinance at time of Plot Plan review for proposed Lots 14.03 and 14.04. **The applicant's professionals indicate the Township Tree Ordinance will be complied with.**
10. The applicant proposes to install a new driveway apron along the property frontage of future Lot 14.03. An Improvement Plan with construction details shall be provided during compliance review, if/when granted. **The applicant's professionals indicate that an Improvement Plan with details shall be provided with resolution compliance submission should approval be granted.**
11. Existing topography and proposed grades will be required for the improvements along Pine Street. **The applicant's professionals indicate that existing topography and grades are to be provided with resolution compliance submission should approval be granted.**
12. Testimony is required on the disposition of storm water from the development of the proposed lots. **Statement of fact.**

13. Proposed lot numbers must be assigned by the tax assessor's office. ***A copy of the proposed lot numbers approval has been provided. The map shall be signed by the tax assessor prior to filing should subdivision approval be granted.***
14. Compliance with the Map Filing Law is required. ***Statement of fact.***
15. A proposed monument should be added to the northerly outbound corner where existing Lot 14.02 abuts proposed Lot 14.04. ***The proposed monument has been added. The Legend shall be revised to state "monument to be set" with resolution compliance submission should approval be granted.***

IV. Regulatory Agency Approvals

Outside agency approvals for this project may include, but are not limited to the following:

- a. Township Tree Ordinance (as applicable);
- b. Ocean County Planning Board;
- c. Ocean County Soil Conservation District;
- d. New Jersey Department of Environmental Protection; and
- e. All other required outside agency approvals.

Should you have any questions regarding this matter, please do not hesitate to contact Dave Magno of our office at 732-955-8000.

Very truly yours,



Terence M. Vogt, PE, PP, CME
Senior Associate, Regional Manager

DRM/TMV/ef

cc: John Jackson, Esq. (Via Facsimile: 732/920-8885)
Shaul Halpern, P.O. Box 743, Lakewood, NJ 08701
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