

**EWING TOWNSHIP PLANNING BOARD
RESOLUTION 2021-02**

<p>IN THE MATTER OF JUSTIN FAHY FOR SUBDIVISION APPROVAL IN ORDER TO CREATE (3) RESIDENTIAL STRUCTURE LOTS</p>	<p>FINDINGS OF FACT AND CONCLUSIONS OF LAW</p> <p>Block 294, Lots 69, 70, 71 & 72</p> <p>Ewing Township, Mercer County Zone: R-2 (Residential District) Application No. PBA-21-002 Approval Date: June 3, 2021</p>
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BE IT RESOLVED by the Planning Board of the Township of Ewing ("Board") that the action of this Board on **June 3, 2021** in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

RELIEF SOUGHT AND JURISDICTION

1. The Applicant is requesting Subdivision approval with variances to create three (3) Residential Building Lots.
2. The property is located at 1108-1110 Parkside Avenue and within the R-2 (Residential District). The Subdivision proposes to consolidate Lots 69, 70, 71 and 72 into (3) residential lots.

3. **ZONING REQUIREMENTS**

A. **Use:**
A Three House Subdivision.

B. **Area and Bulk Requirements:**

Item	Required	Proposed Lot A	Proposed Lot B	Proposed Lot C
Principal Building:				
Minimum Lot Area	10,000 s.f.	7,923.79 s.f. V	7,923.79 s.f. V	7,923.79 s.f. V
Minimum Lot Frontage	80 ft.	81.35 ft.	81.35 ft.	81.35 ft.
Minimum Lot Width	80 ft.	81.35 ft.	81.35 ft.	81.35 ft.
Minimum Lot Depth	110 ft.	97.40 ft. V	97.40 ft. V	97.40 ft. V
Item	Required	Proposed Lot A	Proposed Lot B	Proposed Lot C

Minimum Front Yard	40 ft.	30.8 ft. V	30.8 ft. V	30.8 ft. V
Minimum Side Yard (each)	10 ft.	11 ft.	11 ft.	11 ft.
Minimum Rear Yard	35 ft.	36 ft.	36 ft.	36 ft.
Maximum Building Coverage	18%	18 %	18%	18%
Total Impervious Coverage	26%	26%	26%	26%
Maximum Building Height	35 ft./2.5 stories	---	---	---

V - Variance

C. Variances:

1. Ordinance Section 215-15D(1)(b) requires 10,000 s.f. of lot areas whereas 7,923.79 s.f. is proposed.
2. Ordinance Section 215-15D(1)(f) requires 110 ft. of lot depth whereas 97.4 ft. is proposed.
3. Ordinance Section 215-15D(1)(g) requires 40 ft. front yard where 30.8 ft. is proposed.
4. Ordinance Section 215-15D(3)(a) indicates a maximum building coverage of 18% where 21.07% is proposed for Lots A & B and 21.13% is proposed for Lot C.
5. Ordinance Section 215-15D(3)(b) indicates a maximum total impervious coverage of 26% where 28.49% is proposed for Lots A & B and 28.27% is proposed for Lot C.
6. Minimum Lot depth where 110 ft. is required, where 97.40 ft. exists.
7. Lot A:
 - a) Minimum Lot Area of 10,000 s.f. is required, where 7,923 is requested.
 - b) Minimum Front Yard of 40 ft. is required, where 30.8 ft. is requested.
8. Lot B:
 - a) Minimum Lot Are of 10,000 s.f. is required, where 7,923 is requested.

- b) Minimum Front Yard of 40 ft. is required, where 30.8 ft. is requested.
9. Lot C:
- a) Minimum Lot Area of 10,000 s.f. is required, where 7,900 s.f. is requested.
 - b) Minimum Front Yard of 40 ft. is required, where 30.8 ft. is requested.

D. **Waivers:**

- None requested or required.

THE APPLICANT AND APPEARANCES

- 4. Applicant and owner is Justin Fahy, 3006 West Bangs Avenue, Neptune, New Jersey 07753.
- 5. The subject property is located at 1108-1110 Parkside Avenue, Block 294, Lots 69, 70, 71 & 72 and within the R-2 (Residential District).
- 6. The subject of this application is within the jurisdiction of this Board. The Board has acted within the time required by law.
- 7. The Applicant has submitted an Affidavit of Proof of Service of notice published in the Trenton Times. The Proof of Service comports with the notice before the Board that this matter is of the character that the applicants have presented to the Board.
- 8. The application was deemed complete.

THE HEARING

- 9. A public hearing took place with regard to this application before the Ewing Township Planning Board on **June 3, 2021** via Virtual Meeting through an online Zoom application, accessible to the public.

DOCUMENTS REVIEWED

10. **Documents Reviewed:**

- Sketch Plat, dated December 24, 2020, revised April 9, 2021.

EXHIBITS REVIEWED

- A-1, Subdivision Plan.

TESTIMONY AND EVIDENCE PRESENTED

11. On **June 3, 2021**, the Owner/Applicant represented himself and presented one (1) witness: David Strattan, PE, Owner/Applicant's Engineer of Trenton Engineering.
12. David Strattan, Owner/Applicant's Engineer, reviewed with the Board, Exhibit A-1, the Subdivision Plan, stating that this Subdivision Plan fit in with the character of the neighborhood and the Master Plan.
13. Mr. Strattan and Justin Fahy, the Owner/Applicant, both stated that the plan is consistent with the neighborhood and Mr. Fahy agreed that he would save the trees along the road.
14. There was a discussion between Board Members as to the standards for the granting of variances to allow the 3-Lot Subdivision to occur. The N.J. Supreme Court case Bressman v. Gash 131 N.J. 517, 530 (1993) was cited wherein the Court stated that the Board could grant a 'C-2' variance based upon whether or not the Subdivision fit into the overall character of the neighborhood. It was then left to the Board Members to decide as to whether the proposed Subdivision fit into the character of the neighborhood. Nearby properties were shown to be both smaller and larger than the proposed Subdivision, with a majority being smaller or of a similar size. **Therefore, it was decided that the application should be approved.**

EXPERT REPORTS REVIEWED

15. Expert Reports:
 - L&G Planning Report, by Charles Latini, PP, AICP, dated March 17, 2021.
 - Engineering Report by Michael Angelastro, Ph.D, PE, CME, PTOE of Remington & Vernick, dated May 22, 2021.

BOARD PROFESSIONALS

16. Chuck Latini, P.P. – Board Planner
17. Michael Angelastro – Board Engineer
18. Michael W. Herbert, Esq.– Board Attorney

PUBLIC INPUT

19. The following members of the public spoke at the June 3, 2021 hearing:
- None.

BOARD CONCLUSIONS

- I. The Board approves the application for Subdivision approval with variances.
- II. The Board concluded that granting approval of this application, with variances could occur because the Subdivision did fit into the overall character of the neighborhood and the Subdivision plan would not lead to any significant detrimental effects upon the community.
- III. The Board concluded the Applicant had demonstrated good reason for each variance proposed and that the Applicant satisfied the criteria for the variances. The proposal is relatively low impact that would result in development of a currently unused property.
- IV. The Board finds there is no negative impact upon the public's health, safety and welfare or upon the neighborhood's wellbeing or overall Township Master Plan. Based upon the testimony of the Applicant's Experts and the Township's Experts, the Board finds that the variances are granted.
- V. Based upon the testimony of its experts, the Board finds that the variances are granted.

CONDITIONS OF APPROVAL

20. The Board finds that in order to address the concerns expressed in the course of the hearing and to limit the relief to that which is reasonably necessary to satisfy the applicant's legitimate requirements, the relief granted is subject to the following conditions:
- 1) To the extent possible, the large existing trees along Parkside Avenue shall be preserved.
 - 2) A grading plan shall be provided at such time the lot is developed.
 - 3) Curb and sidewalk exist at the property. The plans shall be revised to indicate that any damage or deteriorated concrete sidewalk and curb will be removed and replaced.

- 4) The Owner/Applicant signatures shall appear on the plans.
- 5) The plans shall be revised to indicate details of all proposed improvements.
- 6) The proposed lot and block numbers shall be assigned by the Township Tax Assessor. The Applicant shall be responsible for all costs to update the Township tax maps.
- 7) All property monumentation as required by the New Jersey Map Filing Law, shall be added to the plan.
- 8) If the Subdivision will be perfected by the filing of deeds, then metes and bounds descriptions along with closure calculations shall be provided for each lot.
- 9) The Subdivision plan shall include the surveyor's certification, as required by 13:40-5.1(m)(3) of the New Jersey Administrative Office. Additionally, Board approval signature lines shall be added to the plans.
- 10) The Zoning table shall be revised to identify Floor Area Ratio and bedroom requirements shall be added to the Zoning table as well.
- 11) Applicant and owner are reminded that site safety is their responsibility. The plan shall note that "The owner, or his representative, is to designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N.J. Uniform Construction Code and CFR 1926.32(f) (OSHA Competent Person)".
- 12) One (1) copy of the revised, final plot plan shall be submitted to both the Board office, Board Planner and our office for resolution compliance review. If the plans are found to be in order, then eight (8) sets of the drawings will be required for signature.
- 13) The Applicant must contact the Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
- 14) The Applicant will provide a copy of all Final plans, reports, and estimates in electronic format on a CD after all revisions are made to the Site Plans and they are ready to be submitted for signatures by the Township. The plans are to be in PDF and in Auto-Cad version not later than 2013, correspondence in Word format and estimates in Excel version no later than 2003.
- 15) The applicant is notified that an inspection escrow and performance bond is required upon receipt of final site approval for this application; an estimate for all on/off site

improvements (excluding structures) must be prepared by the Township Engineer prior to the signing of any plans.

- 16) The applicant must contact the Planning Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
- 17) The Applicant shall comply with all testimony placed upon the record.

OUTSIDE AGENCY APPROVALS

21. Prior to final signature of plans, the Applicant shall submit evidence of approvals or letters of no interest or exemption by the following outside agencies, where applicable:
 - a. Mercer County Planning Board
 - b. Mercer County Soil Conservation District
 - c. Delaware & Raritan Canal Commission
 - d. Ewing Lawrence Sewerage Authority.
 - e. Trenton Water Works
 - f. Fire Code Official
 - g. New Jersey Department of Environmental Protection
 - h. All other outside agency approval as may be required. Copies of all outside agency approvals shall be forwarded to the Township.

CONCLUSION

Based upon the foregoing, the Ewing Township Planning Board at its **June 3, 2021** meeting, voted to grant the application for Subdivision approval in order to create (3) residential structure lots.

This Resolution of Memorialization was adopted on **July 8, 2021**.

The date of decision shall be **June 3, 2021**, except that the date of adoption of this memorializing resolution is the date of decision for the purpose of (1) mailing a copy of the decision to the applicant within ten (10) days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and, (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date for the commencement of the vesting protection.

**ROLL CALL VOTE ON THE APPLICATION FOR
SUBDIVISION APPROVAL IN ORDER TO CREATE
(3) RESIDENTIAL STRUCTURE LOTS
JUNE 3, 2021**

Member	Yes	No	Abstain	Absent
Mayor Bert Steinmann	X			
Richard Owen	X			
Anthony Apicilli		X		
Vincent Shea				X
Dan Burke	X			
Jeff Preischel	X			
Dave Schroth				X
Thomas Lanigan	X			
Fredricka Billups	X			
Shirley Thomas	X			

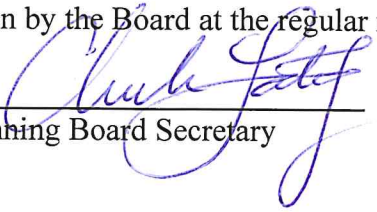
**ROLL CALL VOTE ON MOTION TO APPROVE RESOLUTION OF
MEMORIALIZATION ON
JULY 8, 2021**

Member	Yes	No	Abstain	Absent
Mayor Bert Steinmann	X			
Richard Owen	X			
Anthony Apicilli	X			
Vincent Shea (excused)				
Dan Burke (excused)				
Jeff Preischel	X			
Dave Schroth (excused)				
Thomas Lanigan	X			
Fredricka Billups	X			
Shirley Thomas	X			

CERTIFICATION

I do hereby certify that the foregoing resolution was adopted by the Ewing Township Planning Board at its regular meeting held on **July 8, 2021**. The Resolution memorializes the formal action

taken by the Board at the regular meeting held on **June 3, 2021**.



Planning Board Secretary