

HARDING TOWNSHIP PLANNING BOARD
MEETING MINUTES
APRIL 24, 2023

CALL TO ORDER AND STATEMENT OF COMPLIANCE—Mr. Clew

Mr. Clew announced the meeting of the Harding Township Planning Board was given as follows: Notice was sent to the *DAILY RECORD* and the *OBSERVER TRIBUNE*, posted on the Township Bulletin Board, and filed with the Clerk's Office, located in the Township Hall located at 21 Blue Mill Road, New Vernon, NJ. Notice indicated that formal action may be taken.

ROLL CALL—Ms. Taglairino

The roll was called. The following were present:

Mr. Burns, Mr. dePoortere, Mr. Newlin, Mr. Jones, Mr. Edgar, Mr. Chipperson, Mr. Clew, Ms. Walters, Mr. Yates, Mr. Rosato and Ms. Claytor

Mr. Loughlin, the Board Attorney, Mr. Fox, the Board Engineer, Ms. Gruel, the Board Planner and Lori Taglairino, the Board Secretary, were also present.

REGULAR MEETING

MINUTES

A motion was made by Mr. Edgar to approve the March 27, 2023 minutes. It was seconded by Mr. Chipperson. On a voice vote all eligible members were in favor of approving the minutes.

RESOLUTIONS

Resolution PB #02-22

Norman Slonaker

55 Youngs Road, B47/L13.01, RR Zone

Mr. Yates made a motion to adopt the Resolution for PB# 02-22 Slonaker. The motion was seconded by Mr. Chipperson. A roll call vote went as follows:

For: Jones, Yates, Newlin, Burns, Clew, Edgar, Walters, Claytor and Chipperson.

Against: None

Abstain: dePoortere

OLD BUSINESS

PB APPLICATION #01-23

GHK II & III, LLC

655 & 665 Spring Valley Road

Major Subdivision

Presenting:

Greg Coffey, Attorney

Richard Schommer, Engineer

Mr. Schommer was sworn in for testimony.

- Mr. Coffey presented a proposal for a 29.95 acre, 5 lot subdivision on Spring Valley Road.
- Mr. Schommer presented Exhibits A-1 and A-2, aerial photos of the existing and proposed plans and explained the proposed lots and access.
- Mr. Schommer explained that currently lots 21 and 21.01 comprise the properties for the project.
- Mr. Schommer noted that the proposed would retain the original lots and create new lots as follows:

Lot 21	6.9614 acres (original, existing non-conforming variance)
Lot 21.01	6.0093 acres (original, existing barn, height variance)
Lot 21.04	5.0021 acres
Lot 21.05	5.0047 acres
Lot 21.06	6.2236 acres

- Mr. Schommer noted the following structures would be removed from lots 21 and 21.01:
2 family accessory dwelling, driveway and existing walkway on lot 21
Run-in shed, 2 small sheds on lot 21.01
- It was noted that these properties are not on the Historic List but there is a McCabe Report for the property.
- Mr. Schommer noted that if there is a consideration for Historic Preservation, variances would be needed for several accessory structures.
- The Board requested architectural floor plans for the existing accessory dwellings to ensure they meet the conditional requirements.
- There was a lengthy discussion regarding the proposed driveway access and shared driveway easement agreements.
- Mr. Schommer discussed the wetlands, bridle trails and conservation easements.
- Mr. Loughlin requested all easements associated with this application be submitted before approval can be made.
- Mr. Schommer presented Exhibit A-3, historic aerial photos of the subject properties to confirm prior existing structures.
- The Board had concerns with the driveway access plans.
- The Board noted an interest in preserving several historical structures.

Mr. Spinelli of 685 Spring Valley Road noted his objection to the subdivision access through his flagstaff. He also noted that his attorney was researching solutions for vacating the access easement.

Mr. Platt of Hartley Farm was sworn in.

Mr. Platt offered the historical context of the original Hartley-Dodge Farm property.
Mr. Platt suggested implementing a Homeowners Association.

The application was carried until the May 22, 2023 meeting with no further notice.

OTHER BUSINESS

ADJOURNMENT

The meeting was adjourned at 10:07.

Respectfully Submitted by

Lori Taglairino

Lori Taglairino, Planning Board Secretary

**HARDING TOWNSHIP PLANNING BOARD
RESOLUTION
Norman Slonaker – Application PB-02-22
55 Youngs Road – Block 47, Lot 13.01
Grant of Minor Subdivision Approval & (c) Variances
Adopted April 24, 2023**

WHEREAS, Norman Slonaker applied to the Harding Township Planning Board for minor subdivision approval to create two lots from the presently existing 13.512 acre single flag lot. The property is now known as Lot 13.01 in Block 47 on the Harding Township Tax Map; and

WHEREAS, the subdivision premises being previously two separate lots that were merged into a single lot. The subdivision premises is presently developed with a single driveway which serves the existing two homes on the property. Each of the proposed lots would contain one of the existing homes, and the property is located in the RR Zone. Both of the proposed lots exceed the minimum required lot size of 5 acres, but a variance is required for each proposed lot as neither lot meets the requirements to have a 100 foot by 100 foot building envelope free of any environmental restrictions as provided in Section 225-122(B) of the Township Land Use and Development Ordinance; and

WHEREAS, the Planning Board discussed application completeness at a meeting on January 23, 2023, granted certain waivers, and then deemed the application to be complete; and

WHEREAS, the Planning Board conducted an initial public hearing on this application at its regularly scheduled meeting of February 27, 2023, at which time a quorum of the Board was present to hear this case, and an opportunity was provided for public questions and comments, and a verbatim record of these proceedings was maintained. After discussion with the applicant, the Board determined that a site inspection of the subdivision premises would be appropriate and required; and

WHEREAS, the Planning Board on March 12, 2023 conducted a special site inspection meeting at the subdivision premises, 55 Youngs Road; and

WHEREAS, at its regularly scheduled meeting of March 27, 2023 the Planning Board continued the public hearing on this application at which time a quorum of the Board was present to hear this case, and an opportunity was afforded to members of the public or interested parties to ask questions and/or to be heard regarding this application, and a verbatim record of these proceedings was maintained by the Board; and

WHEREAS, at the meeting of March 27, 2023 the Planning Board adopted an oral resolution approving the minor subdivision approval and a (c) variance for each of the two lots proposed based upon findings and conclusions and subject to certain conditions to be memorialized thereafter;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Planning Board, on this 24th day of April 2023, that the approval of this application for Norman Slonaker for minor subdivision approval and (c) variances is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. The applicant presented a subdivision plan entitled “Minor Subdivision Plan, Lot 13.01, Block 47, Township of Harding, Morris County, New Jersey”, dated June 25, 2022, revised November 18, 2022, and prepared by Yannaccone, Villa & Aldrich. Also submitted to the Board from the applicant as part of the application was a single sheet entitled “Proposal” explaining the applicant’s submission. In addition the applicant and the Board acknowledged and reviewed a memo dated October 17, 2022 from M. McKinley Mertz, PP, AICP, LEED, Green Associate of Heyer Gruel & Associates dated October 17, 2022 as the Planning Consultant to the Board, and letter-reports dated February 17 and March 24, 2023 from Paul D. Fox, PE, PP, of Apgar Associates as the Planning Board Engineer; and

2. At the February 27, 2023 meeting of the Board Nicole Magdziak, Esq. of Day Pitney, Attorneys in Parsippany, New Jersey appeared to present this case for the applicant. Chris Aldrich representing the subdivision engineer assisted her in presenting the proposed subdivision. The applicant’s attorney advised the Board that the applicant had purchased the property in 1967, and constructed a house, and purchased the second front portion of the property, which at that time had a single-family two

story dwelling on December 9, 1986; the two lots remained separate until a lot consolidation deed dated February 6, 1990 combined the two lots then known as Lot 13.A and Lot 13.B into a single lot.

3. The applicant's representatives explained to the Board that the applicant is proposing to re-subdivide the property into two lots, with proposed Lot 13.01 to consist of approximately 7.599 acres (exclusive of the flag staff) and 8.140 acres (inclusive of the flag staff). This lot would contain the existing one story single-family dwelling to the "rear" of the property a pond, driveway, garden, and other related site improvements already existing on this lot. The other proposed Lot 13.03 to consist of approximately 5.068 acres (exclusive of the flag staff) and 5.372 acres (inclusive of the flag staff). This lot will contain the existing two story single-family dwelling to the "front" of the property, a pond, driveway, paver walkway, and other related site improvements already existing on this lot. The Board was also advised that the applicant is proposing to create an easement over the existing driveway for shared access to each of the lots. Mr. Slonaker would continue as the owner of his residence on the "rear lot", and the "front lot" would be sold.

4. In discussing the plans submitted with the Board, it was confirmed by the applicant's attorney that there had been no change in the lot lines from the prior review of the subdivision. Also that the applicant now had delineated the wetlands transitional area on the subdivision plan and added environmental information, including a 100 foot building envelope requirement for each lot from Ordinance Section 225-122(B). The applicant's representatives pointed out to the Board that the plan now had the "environmentally sensitive area marked out" and that only one variance would be required for each of the lots as to the building envelope requirement. Mr. Aldrich also testified, "There would be no site disturbance required for the subdivision proposed at all."

5. The Board Planner, Ms. Mertz, advised the Board that the plans submitted showed no changes in lighting or landscaping for the property. She further stated, "Since the two existing houses built on the property had been constructed before the ordinance requirements for the building envelopes came into effect, this is really a technical variance request before the Board." The Board Planner also advised the Board that the required easements for the driveway and conservation areas would be prepared in cooperation with the applicant's attorney. The Board Engineer Mr. Fox then advised that the applicant had submitted a plan providing a delineation of the existing wetlands and riparian buffers on the property. However, he said this delineation had not been submitted to and/or approved by the NJ DEP as required by the Township code. Although a waiver had been granted for completeness of this application, Mr. Fox advised that it should be a condition of the Board's approval that the applicant would comply with this requirement. This was agreed to by the applicant's attorney and the applicant. Also as was provided in his review letter-report dated March 24, 2023, Mr. Fox stated that the applicant and the Board might consider adjusting the proposed lot line further toward Lot 13.03 to provide a larger developable area for Lot 13.01. He indicated that such a change would result in the lot area for proposed Lot 13.03 being less than 5 acres. However Mr. Fox stated that this arrangement could be approved by the Board as part of a "lot size averaging subdivision" provided the Board would find that the subdivision proposal meets the objectives for lot size averaging for this subdivision as outlined in Section 225-154A of the Township Code.

6. The applicant's attorney indicated that the applicant would take this comment under consideration and advised the Board that the present subdivision plan had been presented as previously filed as, "There is no development proposed for either of the lots now."

7. The Board discussed with the applicant's representatives a site visit to the property including "having the wetlands areas staked out." It was then agreed that the Board's site visit would be conducted on March 12, 2023.

8. At the March 27 continued hearing before the Board, Mr. Aldrich advised the Board that the applicant would propose to obtain a waiver from New Jersey DEP as to the "delineation requirements" for the property as to the flood zone regulations and requirements when any new construction was proposed. Mr. Fox advised the Board, "I have no objection to the subdivision proceeding on this basis." Mr. Aldrich then reviewed with the Board and discussed with the Board Engineer further plan revisions and/or additional requirements for the subdivision. This included a "driveway turn-out area" to be added at the end of the driveway in accordance with the initial review of the subdivision. It was agreed that the area in question would be modified on the subdivision plan to be reviewed and approved by the Board Engineer. It was also confirmed that there are no bridle trails on the property by Mr. Aldrich. An alternate plan showing one of the lots being less than 5 acres with a lot line adjustment from the original subdivision plan under the "lot size averaging section of the ordinance permitting same" was further discussed by Mr. Aldrich with the Board and marked as Exhibit A-1. Mr. Fox confirmed that this alternate sketch met the ordinance requirements for lot size averaging under the ordinance.

9. The Board further discussed with Mr. Fox and the applicant's engineer the lot line adjustment that was being proposed under the "averaging lot size" section of the ordinance which allowed for same. Based upon the physical conditions and topography of the property and considering the location of the houses on the property, the Board agreed that a lot line adjustment such as was being proposed with the alternate plan from the applicant would allow for a better configuration of both lots in the subdivision. Also it would better allow and/or permit the possible construction of a new dwelling on each of the lots in the future.

10. It was further confirmed after discussion by the applicant's engineer and the Board Engineer with the Board that a wetlands and riparian buffers delineation and DEP approval would be required in the future for any construction on the property. However since there was no present construction work proposed the subdivision deed would include the requirements for this wetlands delineation approval and/or any related or required permits from DEP before a building permit for either lot. Also conservation easements for the lots which would be required before any construction in the future would also be attached to the subdivision deed as exhibits, with the subdivision deed listing the further requirement of including in the deed for any purchaser of either of the lots in the subdivision that these requirements would continue to be obligations of the lot owners. The applicant's attorney agreed to work with the Board Attorney and the Board Professionals as to these easements and requirements.

11. There were no public questions, statements, or comments offered to the Board during the hearings in this case.

12. The Board discussed a series of conditions and requirements for the Board's approval of the subdivision being a revised plan for the driveway turn-around, the driveway access easement to be created for both lots, the revised subdivision plan marked as A-1 to be the plan approved by the Board, and for the requirement for future DEP filings and approvals to be added to the subdivision

deed with the driveway and conservation easements as had been discussed with the Board. Also for the applicant's compliance with the Board Engineer's review letter and report dated February 17, 2023. All of this was agreed to by the applicant's counsel.

13. The Board noted the unusual circumstances of the subdivision and variance requests in this case. Specifically that there were two lots with a single-family dwelling constructed upon each that were consolidated by virtue of a lot consolidation deed dated February 6, 1990. Also that there is no new construction or development proposed nor any site disturbance on this property as part of the current application for subdivision approval from the Board to now create two separate lots with a single-family dwelling upon each that is consistent with the prior and continuing usage of this property. The Board also concludes that the re-subdivision of this property to create two separate lots with a single-family dwelling upon each will make the subdivision premises more conforming to the Land Development Ordinance and further be consistent with principles of good planning and design rather than maintaining the premises as a single lot with two dwellings upon it as at present.

14. The Board also finds and concludes that it would be a better arrangement and more suitable and appropriate use of the property for the alternate subdivision plan introduced as Exhibit A-1 before the Board in this hearing to now be the basis of the Board's subdivision approval. The Board agrees with the Board Engineer's memo-letter and testimony, which the applicant's engineer and representatives also agree to, that adjusting the proposed lot lines between Lots 13.03 and 13.01 to provide a larger developable area for Lot 13.01 is a more appropriate and better use of the property overall considering the topography and existing conditions on the property. Even though this would result in a lot area for proposed Lot 13.03 being less than 5 acres, the Board believes that the applicant has satisfied the requirements for such an approval of the revised plan as the Board finds that the revised subdivision plan and proposal meets the objectives a lot size average subdivision as outlined in Section 225-154A of the Township Code.

15. The Board also notes and concludes that the variances required for each of the new lots proposed from the requirements of Section 225-122(B) which requires a building envelope of 100 feet on each side free of wetlands, wetlands transition areas, and easements that restrict development, considering the existing conditions on the property and the location of the dwellings, makes it as the Board Planning Consultant has testified before the Board a "technical type variance" as no new construction or development is proposed with this subdivision. The Board also notes that the applicant is proposing a revised driveway turn-around and access easement to service both of these lots for the driveway that extends off Youngs Road and which will split and lead to each individual house. This easement will contribute to the proper and effective use of each of these houses and new lots and provide for the continued effective usage of each lot and residence as a single-family residence fully consistent with the remaining requirements that apply to these premises in the RR Zone District.

16. Under the particular circumstances of this property as to the long established and existing conditions, the Board believes that the applicant has demonstrated grounds for variance relief for each of the lots which do not comply with the building envelope requirements of Ordinance Section 225-122(B). The Board concludes that the applicant has sufficient evidence for approval of these variances under both the C(1) and C(2) requirements of the MLUL. The existing conditions on the property that pertain to this variance represent hardship conditions for which reasonable variance relief should be permitted as they pertain to established conditions on the property. Requiring the relocation or removal of the nonconforming dwelling on the property would be a severe hardship to the applicant. Especially since the Board finds that the nature of the variance associated with the ordinance section creates a "technical variance" only as the Board Planner has noted. These unusual conditions would therefore justify a hardship or C(1) variance. The Board believes that the applicant also has the basis for a C(2) variance for each of the lots as a "planning variance". Specifically the Board finds and concludes that there would be only positive benefits and advantages to the subject property and for conditions in this immediate neighborhood and zone from the Board allowing variance relief from the current deficiency in the building envelope requirements since the grant of C(2) variance relief involves no construction, development, or other site disturbance on the property. Allowing these long established conditions to continue to remain as part of the subdivision benefits both the applicant and neighboring property owners as well in the reasonable judgment of the Board. The Board also fails to find any significant negative impact or detriment whatsoever for the subject property or neighboring property owners either from the approval of the applicant's subdivision and variance application now before the Board. The positive impact from the subdivision and variance relief associated with same being clearly established before the Board without any counterbalancing negative impact or detriment, the Board concludes now makes it appropriate for the Board to issue its approval in this case.

17. The Board has discussed conditions and requirements that will apply to the approval of the Board, all of which have been accepted by the applicant and his representatives.

Description of Minor Subdivision Approval

1. The application of Norman Slonaker for minor subdivision approval is hereby granted in accordance with a minor subdivision plan prepared by Yannaccone, Villa & Aldrich originally dated June 25, 2022 and with revisions in accordance with Exhibit A-1 from the March 27, 2023 meeting of the Board, and with further revision for driveway turn-around area for driveway access easement required by the Board, in accordance with a further subdivision plan submitted for the reasonable review, requirements, and approval of the Board professionals.

Description of Variances

1. A variance is hereby granted for each lot from the building envelope of 100 feet on each side free of wetlands, wetlands transition areas, and easements that restrict development as provided in Ordinance Section 225-122(B).

2. A variance is issued for proposed Lot 13.03 being less than five acres as part of the lot-size averaging for this two lot subdivision, with the Board finding that the applicant's subdivision proposal meets the objectives for lot size averaged subdivision as outlined in Section 225-154A of the Township Code.

Approval Conditions

1. These approvals are granted subject to the terms, conditions, requirements, and compliance by the applicant with all other ordinances, laws, regulations that apply to the subdivision premises; and

2. A copy of the final revised minor revised subdivision plan in electronic format should be filed with the Planning Board and Township Engineers and the Secretary of the Planning Board; and
3. The applicant shall comply with all terms, conditions, and requirements in the review letter and report dated March 24, 2023 from Paul D. Fox, PE, CME of Apgar Associates as Engineering Consultant to the Planning Board; and
4. The applicant shall pay any and all outstanding application, technical review, or other fees pursuant to the rules, regulations, and requirements of the Planning Board and Township Ordinances, including but not limited to any development fee and/or any and all Affordable Housing fee(s), assessments, or other charge, and any and all further fees, charges, deposits, escrows, or professional billings in accordance with the ordinances and regulations of the Township and/or that result from this subdivision and concluding work required for same; and
5. The applicant shall pay any and all outstanding property taxes; and
6. The form for driveway access easement including the driveway turn-around area and an easement for conservation area on each of the lots in this subdivision shall be prepared by the Board professionals at the expense of the applicant. A recital regarding same and this resolution of the Board describing these easements and the further requirements that will apply to the lot owners in this subdivision shall be included in the subdivision deed. The form of the subdivision deed with these attachments shall be further subject to the reasonable review, requirements, and approval of the Board professionals; and
7. Prior to the signing of the minor subdivision deed by the appropriate officers of the Planning Board, the Board Engineer shall first provide a written confirmation to the Secretary of the Board that the applicant has complied with and satisfied all of the conditions in this resolution; and
8. In accordance with N.J.S.A. 40:55D-47 the minor subdivision deed shall be recorded within 190 days from the date of this resolution, unless the time period is extended consistent with applicable legal requirements; and
9. A recorded copy of the minor subdivision deed shall be promptly filed with the Planning Board Secretary and the Township Tax Assessor by the applicant's attorney without cost or expense to the Township.