

**RESOLUTION OF THE PLANNING BOARD
OF THE BOROUGH OF NEW PROVIDENCE
REGARDING THE APPLICATION OF
VIJAYA VENKATESH
FOR MINOR SUBDIVISION APPROVAL
AND VARIANCE FOR LOT WIDTH AT SET BACK**

WHEREAS, the applicant, Vijaya Venkatesh, is the owner of property located at 25 Oakwood Drive, New Providence, New Jersey, (Block 283, Lot 11 on the Tax Map), and has applied to the Planning Board for minor subdivision approval and variance for lot width at set back; and

WHEREAS, the applicant was represented by Glenn S. Pantel, Esq., and

WHEREAS, the applicant filed the required notice of public hearing, filed proof of service in accordance with pertinent statutes and gave public notice by publication in the official newspaper of the Borough of New Providence; and

WHEREAS, the application was heard by the Planning Board at public hearings held pursuant to law on December 13, 2011 and February 7, 2012; and

WHEREAS, the Planning Board has examined and considered all the testimony and exhibits presented at the hearing; and

WHEREAS, the Planning Board does make the following findings of fact and conclusions:

1. The applicant is the owner of property located at 25 Oakwood Drive, New Providence, New Jersey (also known as Block 283, Lot 11 on the Borough of New Providence Tax Map) and has made application to the Planning Board for minor subdivision to subdivide the property into two residential building lots. The property is located in the R-1 Zone and is presently improved with an existing single family dwelling. The subject property contains a total of 57,655 square

feet (1.32 acres). The applicant originally proposed a three-lot subdivision with access from Oakwood Drive by a common driveway. The applicant subsequently revised the application to request minor subdivision approval in order to subdivide existing Lot 11 into two lots, to be known as Lots 11.01 and 11.02. Proposed Lot 11.01 contains 26,562 square feet of lot area, and proposed Lot 11.02 contains 31,093 square feet of lot area. The only variance requested in connection with the application is for lot width at the set back line for Lot 11.02. The Borough Land Use Ordinance requires a minimum of 120 feet of lot width at the set back line, whereas 119.56 feet is proposed.

2. Dr. Raj E. Venkatesh, the husband of the applicant, Vijaya Venkatesh, testified that in 2007 he and other family members purchased the existing house with the intent to accommodate certain elderly members of the family. Over the next several years, several of the family members died and the plans to occupy the house as intended did not proceed. Dr. Venkatesh and his wife were unable to maintain the house and it fell into significant disrepair. Dr. Venkatesh testified that it was his intent to demolish the existing residence and to subdivide and sell the property as residential building lots.
3. Kevin G. Page, P.E., from Page Engineering Consultants, PC, testified that he was retained by Dr. Venkatesh to prepare plans to subdivide the property into three residential building lots. Mr. Page testified that the three proposed lots all met the minimum lot area requirement and would be accessed by a common driveway. During Mr. Page's testimony, members of the public and Board expressed significant concern regarding the configuration of the proposed subdivision and the number of variances required as well as the steep slope disturbance and potential drainage issues. Based upon the Board's comments,

the application was carried and the applicant agreed to consider revisions to the subdivision plan.

4. At the continued hearing on February 7, 2012, Catherine Mueller, P.E., from Page Engineering Consultants, PC, testified that based upon the comments received at the prior meeting, the applicant had revised the subdivision plan to eliminate one of the proposed lots. The revised application proposed a two-lot subdivision with each lot having its own access driveway to Oakwood Drive, thereby eliminating the need for the common driveway easement. Proposed Lot 11.01 contains 26,562 square feet and proposed Lot 11.02 contains 31,093 square feet. The only variance requested is a variance for lot width at the set back. The lot width at the set back for proposed Lot 11.02 is 119.56 feet, whereas 120 feet is required. The subdivision complies with all other lot area, coverage and set back requirements. Ms. Mueller testified that each lot would contain a minimum 18 foot side yard set back from the adjoining lots, with a minimum 12 foot side yard set back between the two newly created lots. Ms. Mueller also testified that the revised subdivision had located the two proposed homes near the middle of the lot where the existing home is presently located in order to eliminate the steep slope variances and to minimize any disturbance of the site. Ms. Mueller testified that proposed Lot 11.01 utilizes the same driveway location as the existing driveway and the driveway for proposed Lot 11.02 includes a retaining wall in order to protect some of the existing trees. Ms. Mueller also testified that the driveways for the two proposed homes will drain to an existing storm sewer on Oakwood Drive. The roof leaders on the homes will drain to underground drywells. The roof leaders for Lot 11.02 will discharge to a drywell that will be relocated to the front of the house. There will be a similar

layout for Lot 11.01. Ms. Mueller testified that the proposed storm water plan will result in a net decrease of storm water runoff than presently exists.

5. Ms. Mueller also addressed the February 2, 2012 Memorandum from Borough Engineer, Andrew Hipolit and testified that the applicant would comply with the recommendations and technical requirements set forth in the Engineer's Memorandum in accordance with the February 6, 2012 letter from Kevin Page, P.E., of Page Engineering Consultants, PC, to the Planning Board. In addition, Ms. Mueller indicated that the applicant would agree to coordinate the construction traffic with the police and would prepare a tree preservation and landscape plan as well as marking and identifying the trees to be protected during construction. Ms. Mueller also confirmed that there was adequate sight distance for the driveway, as shown on the Sightline Profile prepared by Page Engineering Consultants, PC, Drawing #6, dated 07/20/11.
6. Michael Tobia, P.P., testified that he had been retained as the applicant's professional planner. Mr. Tobia testified that the revised subdivision plan for the two lots is largely compliant with the bulk requirements of the R-1 Zone. Lot 11.01 is almost 50% larger than the minimum lot requirement and Lot 11.02 is 72% larger than the minimum lot requirement for the zone. With the exception of a minor variance for lot width at set back for lot 11.02, the lots meet the set back requirements of the R-1 Zone as well as lot coverage and will meet FAR requirements. Both lots exceed the minimum lot width at the right-of-way and Lot 11.01 meets the lot width at the set back requirement. The only variance requested is the lot width at the set back for Lot 11.02. The requested variance is 5 inches, or less than 1% of the lot width at set back requirement. Mr. Tobia testified that in his opinion this was a de minimis variance. Mr. Tobia noted that the proposed subdivision requires no variances for steep slope disturbance and

the storm water management system improves the storm water runoff which is a positive improvement. Mr. Tobia was of the opinion that the proposed subdivision is reasonable and appropriate and that the minor variance for the lot width at set back met both the positive and negative criteria. Mr. Tobia noted that the proposed lots were both significantly in excess of the minimum lot area in the zone and appropriate for the surrounding neighborhood. Mr. Tobia testified that the 5 inch lot width variance was de minimis and could not be considered a substantial impairment to the zone plan or the public good.

7. Numerous members of the public presented concerns relating to storm water runoff, tree preservation, the possible blasting of subsurface rock and sight distance from the driveways.
8. Based upon the testimony and evidence presented, the Planning Board finds that the application for minor subdivision approval and variance for lot width at set back should be granted. Specifically, the Board finds that the subdivision to create two residential lots is reasonable and appropriate subject to certain conditions as set forth below. With respect to the variance, the Board is satisfied that the 5 inch variance is de minimis and in any event, the benefits of granting the variance substantially outweigh any detriments and that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of New Providence that minor subdivision approval and variance for lot width at set back be and the same is hereby granted subject to the following minimum conditions of approval: ;

1. The applicant shall comply with all recommendations and technical requirements noted in the Memorandum from the Borough Engineer dated February 2, 2012, a copy of which is attached hereto and incorporated by

reference, in accordance with the February 6, 2012 letter from Kevin Page, P.E., of Page Engineering Consultants, PC, to the Planning Board.

2. The plans will be revised to show the relocation of the drywells to the front of Lot 11.02, the conduit outlet protector and the correct FAR requirements in the zoning table.
3. The applicant will provide a tree protection plan showing those trees that are to be removed and those that will stay. The applicant will also fence the trees that are to be protected and provide a buffer before construction begins. The tree protection plan shall be subject to review and approval by the Borough Engineer.
4. The applicant will submit the plans to the Police Department for review to address the Borough Engineer's concern about the driveway entrance locations as related to sight distance issues with the Oakwood Drive and Mountain Avenue intersection.
5. The applicant will address the issue of construction traffic entering and exiting the two lots as per the Borough Engineer's Memorandum of February 2, 2012.
6. The footing drains and sump pumps will be connected to the drywells.
7. The narrower 12 foot side yard set backs will be located on the interior side yards of the newly created lots. The larger 18 foot side yard set back shall be located on the side yards adjacent to the adjoining properties.
8. Blasting, if any, will comply with state and Borough requirements.
9. The rear yard set back for Lot 11.02 will be 50 feet to the principal structure, exclusive of exterior accessory structures, such as decks and porches.
10. The applicant will apply for a demolition permit within 90 days of approval of the Resolution and will complete the demolition within 30 days of receipt of the demolition permit.
11. The Planning Board shall retain jurisdiction over landscaping, tree preservation and drainage.
12. The applicant shall post all performance and maintenance guarantees required by the Borough Engineer, pay all taxes, escrows and fees of the Borough professionals, and obtain the required municipal and governmental approvals including but not limited to soil conservation requirements and, if applicable, NJ DEP approval.
13. All fees, taxes, escrows, bonds and other monies due to the Borough of New Providence shall be paid in full.
14. The applicant shall comply with the mandatory Affordable Housing Development Fee Ordinance, if applicable.

15. Deeds of minor subdivision shall be reviewed and approved by the Borough Attorney and Engineer and shall be filed within 190 days of adoption of this Resolution.

Approved this 13th Day of March, 2012.

ATTEST:

Margaret Koertge
Secretary, Planning Board

Philip A. Treventi
Acting Chairman, Planning Board

Those in favor: Mr. Galluccio, Mr. Sartorius and Mr. Treventi

Those opposed: -----

Date of Resolution: March 13, 2012

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