

**BOROUGH OF PARK RIDGE
ZONING BOARD
OCTOBER 18, 2022
REGULAR MEETING MINUTES**

The Public Meeting of the Zoning Board of the Borough of Park Ridge was held on the above date.

Chairman Pantaleo stated that the meeting was being held in accordance with the Open Public Meetings Act.

Chairman Pantaleo asked everyone to stand and recite the Pledge of Allegiance.

ROLL CALL BOARD:

Chairman Frank Pantaleo	Present
Mr. Michael Brickman	Present
Mr. Mike Curran	Present
Mr. Jake Flaherty	Present
Mr. Michael Mintz	Present
Dr. Gregory Perez	Present
Ms. Lynda Nettleship-Carraher	Present
Mr. Jeff Rutowski	Present

Also Present:

Mr. Michael Gannaio - Attorney	Present
Ms. Tonya Janeiro	Present
Mr. John Dunlea – Neglia Engineering	Present
Mr. Nick Dickerson – Colliers Planning	Present

APPROVAL OF MINUTES

The minutes of September 20, 2022 were approved on a motion from Mr. Brickman, seconded by Mr. Flaherty, and carried by all members eligible to vote.

RESOLUTION #2022-13

#ZB21-15

Ramon Fonseca

42 Highview Avenue

Block 1808 / Lot 13

2nd Floor Addition

A motion was made by Dr. Perez to approve the memorializing resolution. The motion was seconded by Mr. Curran, and carried by a roll call vote as follows:

Mr. Michael Brickman	Yes
Mr. Mike Curran	Yes
Mr. Jake Flaherty	Yes
Dr. Gregory Perez	Yes
Ms. Lynda Nettleship-Carraher	Yes
Mr. Jeff Rutowski	Yes
Chairman Frank Pantaleo	Yes

CONTINUED APPLICATION #ZB22-1

**Julio & Evelyn Pecho
46 W. Park Avenue
Block 1202 / Lot 50
Retaining Wall**

Mr. Dunlea commented that the applicant submitted revised wall plans, but he was not satisfied with the revised plans. Chairman Pantaleo made an announcement that this application will be carried to the November 22, 2022 Zoning Board of Adjustment meeting at 8:00 p.m. The applicant agreed to consent to an extension of time. No additional notice will be required.

NEW APPLICATION #ZB22-5

**Valerie Vermiglio Kohn
82 Rivervale Road
Block 2007 / Lot 1
Subdivision**

Attorney, Mr. John Conte, from the law firm Meyerson Fox Mancinelli & Conte was present as the attorney for the applicant.

Proof of service is in order.

The following people will be offering their testimony:

Engineer – Sean McClellan
Architect – Jensen Vasil
Applicant – Valerie Vermiglio Kohn

The applicant's Engineer, Mr. Sean McClellan, from Lantelme, Kurens and Associates, went over his qualifications and was sworn in by Attorney Gannaio, and accepted as an expert witness.

Exhibit A-1 was marked as minor subdivision plans dated March 15, 2022 and revised September 13, 2022.

Mr. McClellan spoke about the proposed subdivision application.

The existing 87,641 sq. ft. property is located in the R-15 zone. Two variances will be required. The required lot width is 100 ft., where 187 ft. is existing and the two new lots will have widths of 100 ft. and 87 ft. The required side yard set-back is 18 ft., where 102.4 ft. is existing and the two new lots will have a set back of 15.4 ft. and 18 ft.

The submitted plans only show a building envelope for the new lot on 1.02.

The new 1.02 lot will have enough space to propose a 2-car garage with a 2-car driveway.

Mr. Rutowski asked about driveway access.

A question was asked regarding the wetlands on the property. Mr. McClellan showed on the plans where the wetlands were located.

Mr. Dunlea asked Mr. McClellan to go over the existing conditions of the property.

The chain link fence will be removed on the newer 1.02 lot.

Attached Mr. Dunlea's review letter dated July 27, 2022.

The right-of-way dimensions were discussed.

Mr. Rutowski asked if they were going to keep the remaining homes on Lot 1.01. Mr. McClellan replied yes. There are currently two homes on this lot. One is a one-story single-family home and the other home is a two story, two family home.

OPEN TO THE PUBLIC TO ASK QUESTIONS OF MR. VASIL

Margaret Burke – 81 Rivervale Road

Ms. Burke said she cannot look at the home any more in its current condition and wants this application approved. Ms. Burke said the current home owner rescues Pit Bulls and she fears them. The Chairman said that this application is for a subdivision only and the applicant does not need to fix the current homes.

Mr. Curran said that if this subdivision is approved, it will now make a non-conforming lot. Mr. Conte agreed.

The applicant's Planner, Mr. Michael F. Kauker, from Kauker & Kauker, LLC., went over his qualifications and was sworn in by Attorney Gannaio, and accepted as an expert witness.

Exhibit A-2 was marked as an aerial view photograph and an existing condition photograph.

Mr. Kauker went over his Planning analysis. He believes the benefits of this subdivision outweigh the detriments. Mr. Kauker commented that there are eleven different size properties surrounding 82 Rivervale Road.

Mr. Dickerson asked Mr. Kauker to go over the negative criteria more in depth. Mr. Kauker believes this application is in sync with the Borough's Master Plan.

Attached is Mr. Dickerson's review letter dated July 8, 2022.

Mr. Dickerson said he identified five variances needed for this property. The variances are as follows:

- Use Variance for Principal Use
- Use Variance for Number of Principal Buildings.
- Use Variance for Number of Principal Uses
- Side Yard Setback
- Lot Width

Mr. Flaherty inquired about the building envelope of Lot 1.02

There were no members of the public wishing to ask questions of Mr. Kauker.

The applicant, Ms. Valerie Vermiglio Kohn was sworn in by Attorney Gannaio. Ms. Vermiglio Kohn is the contract purchaser on this home. Ms. Vermiglio Kohn introduced herself as a long-time resident of Park Ridge. She spoke about the proposed plans she has for this property. Because the property was in such despair, she was unable to receive financing for this property. Ms. Vermiglio Kohn plans on selling Lot 1.02 and using the funds to clean up Lot 1.01.. Ms. Vermiglio Kohn currently lives on the property.

Chairman Pantaleo commented that the following reviews were received.

Director of Operations – Paul Longo
Water Supervisor – Chris O’Leary
Police Review – Chief Joseph Madden
Fire Review – Fire Marshall John Hansen

A brief discussion took place regarding the submitted professional reviews.

There were no members of the public wishing to ask questions or comment on this application.

A Board discussion took place regarding the application for 82 Rivervale Road.

Mr. Flaherty commented that he is impressed with this application and is in favor of its approval.

Chairman Pantaleo stated that the subdivision is not an approval to the lot, but that he does see the value in the open space land. He is in favor of this application.

Mr. Mintz asked what would happen in the future if Lot 1.02 is developed and needs variances. Chairman Pantaleo replied they would have to come back to this Board for approvals.

Mr. Gannaio will draft a resolution that will be voted on at the October 18, 2022 Board of Adjustment meeting.

A motion was made by Mr. Rutowski to grant the requested variances. The motion was seconded by Mr. Mintz, and carried by a roll call vote as follows:

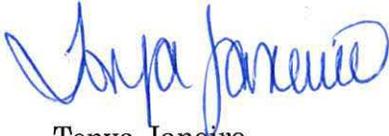
Mr. Michael Brickman	Yes
Mr. Mike Curran	Yes
Mr. Jake Flaherty	Yes
Mr. Michael Mintz	Yes
Dr. Gregory Perez	Yes
Ms. Lynda Nettleship-Carraher	Yes
Mr. Jeff Rutowski	Yes
Chairman Frank Pantaleo	Yes

BOARD DISCUSSION

No Board discussion took place.

The meeting was adjourned on a motion from Mr. Mintz, seconded by Mr. Brickman, and carried by all.

Respectfully Submitted,



Tonya Janeiro

Resolution #2022-13
Application #ZB21-15
ZB 10-17-2022

BOROUGH OF PARK RIDGE

ZONING BOARD OF ADJUSTMENT RESOLUTION

WHEREAS, RAMON FONSECA (hereinafter referred to as "Applicant"), being the owner of premises known as 42 Highview Avenue, in the Borough of Park Ridge, County of Bergen and State of New Jersey, said premises also being known as Lot 13 in Block 1808 on the Tax Assessment Map for the Borough of Park Ridge, applied to the ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE (hereinafter referred to as "BOARD"), seeking variances to allow the construction of an addition to the existing single family home on the lot; and

WHEREAS, the premises are located in the R-20 Residential Zoning District as same is defined by the Zoning Ordinance of the Borough of Park Ridge; and

WHEREAS, the BOARD has received the exhibits and documents with respect to this application as more particularly set forth on the list attached hereto and made part hereof; and

WHEREAS, the BOARD held a hearing in connection with the application, upon due notice as required by law, on September 20, 2022; and

WHEREAS, the BOARD has carefully considered the application and all evidence and testimony submitted in connection therewith; and

WHEREAS, the BOARD voted to approve the aforesaid application following the

close of the public hearing thereon on September 20, 2022, and the within resolution is a memorialization of said approval pursuant to N.J.S.A. 40:55D-10g (2);

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE that the BOARD hereby makes the following findings of fact:

1. Applicant is the owner of premises located at 42 Highview Avenue in the Borough of Park Ridge, also known and designated as Lot 13 in Block 1808 on the Tax Map of the Borough of Park Ridge, a non-conforming lot containing 9,250 sq. ft. (20,000 square feet required) with a lot width of 50 feet (110 feet required) and a lot depth of 185 feet (160 feet required) and currently improved with an existing single family residential structure.
2. The applicant proposes to construct an addition to the existing dwelling.
3. The first witness was Jensen Vasil, who qualified and testified as an expert in architecture.
4. The witness introduced Exhibit A-1 which was marked into evidence and consisted of drawings Z-001 – Z-005, a revised site plan, a survey and zoning calculations dated July 8, 2022.

The witness described the existing lot which is substantially undersized at 9,250 sq. ft. where 20,000 sq. ft. is required.

The witness described the changes to the original submission and stated that the revised plans now only show storage on the top floor, the bathroom was removed, and the dormers are smaller.

The witness testified that the existing foundation will be utilized for the new home but will be squared to the property lines.

5. The applicant's next witness was Guy Lagomarsino, who qualified and testified as an expert in engineering. The witness testified that the grade does not change much and that the proposal includes the installation of two drywells, where there are currently none on the property. The witness also testified that he performed a percolation test and that the results are all within the appropriate limits.

In response to a question by the BOARD, the witness testified that the shed will remain on site.

6. The applicant's next witness was Charles Heydt, who qualified and testified as an expert in planning. The witness testified that the lot is substantially undersized with the width of 50 feet where 110 feet is required. He also stated that the proposed structure would conform to other homes in the area and that the height is conforming at 32 feet.

The witness testified that, in order to be conforming, the home would have to be 6 feet in width, which clearly would make the lot unusable.

The witness testified that, in his opinion, the proposal enhances the overall neighborhood, is aesthetically pleasing, and that there was sufficient separation between the proposed home and the adjacent homes.

7. The BOARD finds that by reason of the location of the existing house on the lot as well as the size and the shape of the lot, the strict application of the Zoning Ordinance

would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the Applicant pursuant to N.J.S.A. 40:55D-70(c) (1).

8. The BOARD further finds that construction of the addition will not adversely impact adjacent properties.

9. The BOARD finds and concludes that the benefits from the granting of the variances proposed outweigh any detriment pursuant to N.J.S.A. 40:55D-70 (c) (2).

10. Moreover, the BOARD finds that:

(a) the proposed construction will improve drainage affecting adjacent properties;

(b) that the addition will be in keeping with the scale of the neighborhood, and

(c) The proposed improvements are aesthetically pleasing and further the zoning purpose of maintaining the housing stock.

By reason of the foregoing, the BOARD finds that a decision to grant the variances from the required setbacks for the proposed addition will not result in any substantial detriment to the public good nor will same impair the intent and purpose of the zone plan or Zoning Ordinance of the Borough of Park Ridge.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT FOR THE BOROUGH OF PARK RIDGE, by virtue of the foregoing, and pursuant to the authority of N.J.S.A. 40:55D-70(c)(1) and (2), the BOARD does hereby grant the Applicant's requested variances from the setback requirement so as to permit the construction of the addition as more particularly shown on the plans submitted to the BOARD.

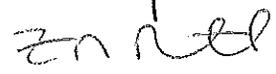
Ayes: 7

Nays: ~~0~~

Dated: October 18, 2022

Introduced by: 
GREG PEREZ

Seconded by: Mike Curran


Approved: Frank Pantaleo


<p>EXHIBIT LIST</p> <p>BOROUGH OF PARK RIDGE ZONING BOARD</p>

APPLICANT: ZB 21-15
 ADDRESS: 42 Highview Avenue
 BLOCK: 1808 LOT: 13
 ZONE: R-20

EXHIBIT:	ITEM NO.	DATE:
Application	1	June 8, 2021
Denial of Application	2	April 6, 2021
An architectural plan set consisting of five (5) sheets, entitled "Fonseca Residence, 42 Highview Avenue, Park Ridge, NJ," prepared by Jensen C. Vasil, Architect	3	February 21, 2021 Latest Revision - September 2, 2021
A signed and sealed boundary survey, entitled "Survey of Property, Tax Lot 13 Block 1808, 42 Highview Avenue, Borough of Park Ridge, Bergen County, NJ," prepared by Marc J. Cifone, P.L.S., and Jeffrey S. Grunn, P.L.S.	4	February 15, 2021 Revised with topographic information - August 6, 2021
An engineering plan set consisting of two (2) sheets, entitled, "Proposed detention plan for 2 ½ story extension, 42 Highview Ave. Park Ridge, Bergen County, NJ" prepared by Guy Lagomarsino, P.E., of Optimized Engineering Associates	5	August 2021 Revised through December 14, 2021
A signed drainage reported entitled, "Drainage Investigation for Stormwater Control, 42 Highview Avenue," prepared by Guy Lagomarsino, P.E., of Optimized Engineering Associates	6	August 20, 2021 Revised through December 12, 2021



EXPERIENCED
DEDICATED
RESPONSIVE

negliagroup.com

July 27, 2022

Via: E-Mail

Borough of Park Ridge
53 Park Avenue
Park Ridge, New Jersey 07656

Attn.: Ms. Tonya Tardibuono, Secretary

Re: **Variance Application – Engineering / Subdivision Review**
Applicant(s): Valerie Vermiglio Kohn
82 Rivervale Road (Block 2007, Lot 1)
Borough of Park Ridge, Bergen County, New Jersey
Neglia File No.: PKRDSPL22.018

Dear Ms. Tardibuono,

As requested, we have reviewed the recently submitted Subdivision Application. The submittal included the following documents:

- A Borough of Park Ridge, Subdivision Application, prepared by the Applicant, date April 26, 2022;
- Owner's Affidavit dated April 22, 2022;
- Certification of Applicant dated April 20, 2022;
- Borough of Park Ridge Planning Board Resolutions dated December 15, 2010, and April 25, 2012;
- Borough of Park Ridge Zoning Board Resolution dated February 18, 2014;
- Certification of Payment of Taxes dated March 2, 2022;
- 200 Foot Property Owner List dated March 2, 2022;
- Unsigned and unsealed property survey entitled, "Topographic Survey", prepared by Christopher Lantelme, P.E., L.S. of Lantelme, Kurens & Associates, P.C., dated February 14, 2022 with no revisions;
- Signed and sealed Subdivision Plan sheet entitled, "Minor Subdivision for Valerie Kohn", Christopher Lantelme, P.E., L.S. of Lantelme, Kurens & Associates, P.C., dated March 15, 2022 with no revisions.
- Planning Review Letter prepared by Nicholas Dickerson, PP, AICP, CFM of Colliers Engineering and Design, dated July 8, 2022.

1. **Property Description**

The subject property is a single lot identified as Block 2007, Lot 1, per the Borough of Park Ridge Tax Map Sheet No. 20. The subject property is commonly known as 82 Rivervale Road and is located on the west side of Rivervale Road, approximately 310 feet to the north of the intersection with Lillian Street. The property is 87,641 square feet (2.01 acres) in size, and is located within the R-15 Zone, per the Borough of Park Ridge Zoning Map.

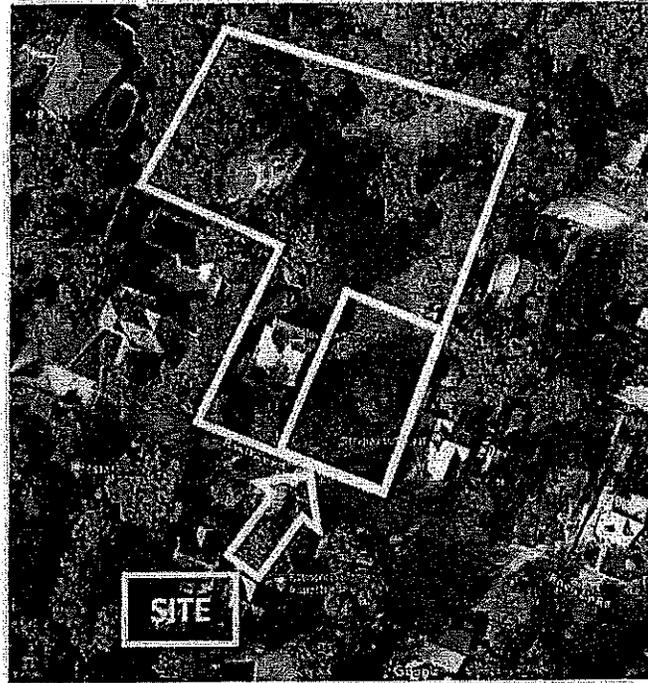
The existing site is currently occupied by a two (2) story frame dwelling with an asphalt / gravel driveway providing access onto Rivervale Road. Additional site features include a frame garage, screened shed, one (1) story frame structure, front slate walkway, and rear concrete walkway. The Applicant proposes to subdivide the existing lot to construct a new dwelling and accompanying driveway. All existing features listed above are to remain on site within proposed lot 1.01 and the proposed dwelling is to be constructed in proposed lot 1.02.

LYNDHURST

34 Park Avenue
PO Box 426
Lyndhurst, NJ 07071
p. 201.939.8805 f. 201.939.0846

MOUNTAINSIDE

200 Central Avenue
Suite 102
Mountainside, NJ 07092
p. 201.939.8805 f. 732.943.7249



2. **Completeness Review**

Neglia previously issued a completeness review of the subject application and recommended that the application be deemed **complete**. Overall, Neglia takes no exception to this application being heard by the Zoning Board of Adjustment.

3. **Variance / waivers**

We defer to the Board Planner regarding the required variances and bulk deficiencies.

4. **Engineering Comments**

- 4.1. At such time as a hearing is scheduled regarding this matter, a representative or owner of the project site shall be present to address questions from the Board.
- 4.2. The Applicant shall provide testimony addressing future construction within the subdivided parcels as indicated on the proposed plans. This testimony shall address compliance with applicable regulations and guidelines established with the Borough of Park Ridge Zoning Ordinance.
- 4.3. The Applicant shall provide testimony with respect to the existing drainage easement located in the rear yard.
- 4.4. The Applicant shall provide testimony regarding the existing site features (i.e. chain link fence, existing paver wall, etc.) with respect to the proposed subdivision. Specifically, the Applicant shall address any existing site features that will be removed to accommodate the proposed subdivision.

5. **Subdivision Comments**

- 5.1. In accordance with Borough Ordinance 87-36C, "Each lot must front upon an approved and improved street with a right-of-way width of at least 50 feet in width" The Applicant's surveyor has established the right-of-way of Rivervale Road along the parcel frontage to be 33 feet wide, based on the establishment of the centerline at 16.5 feet from the current right-of-way. In order to comply with this Ordinance, the Applicant shall dedicate 25 feet

from the centerline, rather than the 16.5 feet shown on the submitted plan. We will delay checking the proposed lot geometry, proposed parcel areas, and zoning table data until the proposed parcels have been adjusted.

- 5.2. The Applicant has submitted plans with a signature block referencing the "Planning Board". The Applicant shall revise the same to reference the "Zoning Board".
- 5.3. The Applicant shall confirm the new lot designations with the Borough of Park Ridge Tax Assessor.
- 5.4. The Applicant shall show the required setback lines for all proposed parcels. Specifically, the Applicant shall illustrate the setback lines for proposed lot 1.01.
- 5.5. The Applicant shall illustrate all existing structures and wooded areas within the subdivision and within 200 feet thereof.
- 5.6. The Applicant shall revise the title block to correct the name of the municipality where the subject parcel exists. ("River Vale" shall be changed to "Park Ridge").
- 5.7. In accordance with Borough Ordinance 101-12 "There shall be no more than one principal use on each lot in any residential district..." The Applicant shall provide testimony as to whether or the not the second principal dwelling on proposed Lot 1.01 will remain or not.

6. Final Comments

- 6.1. This approval is subject to all other applicable rules, regulations, ordinances and statutes of the borough, Bergen County, State of New Jersey or any other governmental agency having jurisdiction over same.
- 6.2. It is the Applicant's responsibility to determine what, if any, permits are required from outside agencies and internal municipal agencies and departments in order to construct the proposed development. These agencies include, but are not limited to Bergen County Planning/Engineering, Bergen County Soil Conservation District, municipal fire / police departments, Park Ridge Water, Park Ridge Electric, BCUA, NJDOT and NJDEP.
- 6.3. Should the Board look favorably upon this application, a performance bond, maintenance bond and inspection escrow will be required for on-site / off-site improvements, in accordance with the Municipal Land Use Law.
- 6.4. We recommends that a response letter be submitted that addresses each of the comments noted above.
- 6.5. The above comments are based on a review of materials submitted and/or testimony provided to date. We reserves the right to provide new or updated comments as additional information becomes available.

We trust you will find the above in order. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

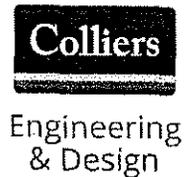
The Neglia Group



John J. Dunlea, P.E.
For the Zoning Board Engineer
Borough of Park Ridge

cc: Valerie Vermiglio Kohn – Applicant (via email)
John A. Conte, Jr., Esq. – Applicant's Attorney (via e-mail)
Christopher Lantelme, P.E., L.S. – Applicant's Engineer (via e-mail)

331 Newman Springs Road
Suite 203
Red Bank New Jersey 07701
Main: 877 627 3772



July 8, 2022

Tonya Tardibuono, Zoning Board Secretary
Borough of Park Ridge
53 Park Avenue
Park Ridge, NJ 07656

Application No. ZB22-5
Valerie Vermiglio Kohn (Applicant)
82 Rivervale Road (Block 2007, Lot 1)
First Planning Review
Colliers Engineering & Design Project No. PRZ-0012

Dear Ms. Tardibuono,

As requested, our office has reviewed Application No. ZB22-5 submitted by Valerie Vermiglio Kohn (the Applicant), seeking minor subdivision approval with use and bulk variance relief.

The following documents, which were submitted in support of the Application, have been reviewed:

- Subdivision Application, date of submission: April 26, 2022;
- Resolutions concerning the subject property from December 15, 2010, April 25, 2012, and February 18, 2014;
- Certification of Payment of Taxes, dated March 2, 2022;
- 200 Foot Property Owners List, dated March 2, 2022;
- Plans entitled "Topographic Survey." Prepared by Christopher Lantelme, PE, LS (unsigned), of Lantelme, Kurens & Associates, P.C., dated February 14, 2022;
- Plans entitled "Minor Subdivision for Valerie Kohn." Prepared by Christopher Lantelme, PE, LS of Lantelme, Kurens & Associates, P.C., dated March 15, 2022; and,
- Completeness Review, prepared by John J. Dunlea, PE of Neglia Engineering Associates, dated May 31, 2022.

A. Existing Conditions

The subject site, known as Lot 1, of Block 2007, is a 87,641 square foot parcel located in the R-15 (One-Family Residential) zone district. The property is located on the west side of Rivervale Road, approximately 210 feet south of the intersection with Morningside Avenue, and approximately 245 feet north of the intersection with Lillian Street. The property contains approximately 187 feet of frontage along Rivervale Road. The northern side of the property abuts the terminus of Local Street. The northern side of the property also abuts the zoning boundary between the R-15 and R-10 zones.

The subject site is currently developed with a two-story detached single-family structure and a one-story detached single family structure. Other existing site improvements include fences, detached garage, screened shed, driveway, and walkways. The rear portion of the property contains a 15-foot-wide drainage easement that bisects the property. The rear portion of the property is also shown in the plans to contain wetlands.

Uses immediately adjacent to the subject site are detached single family in character.

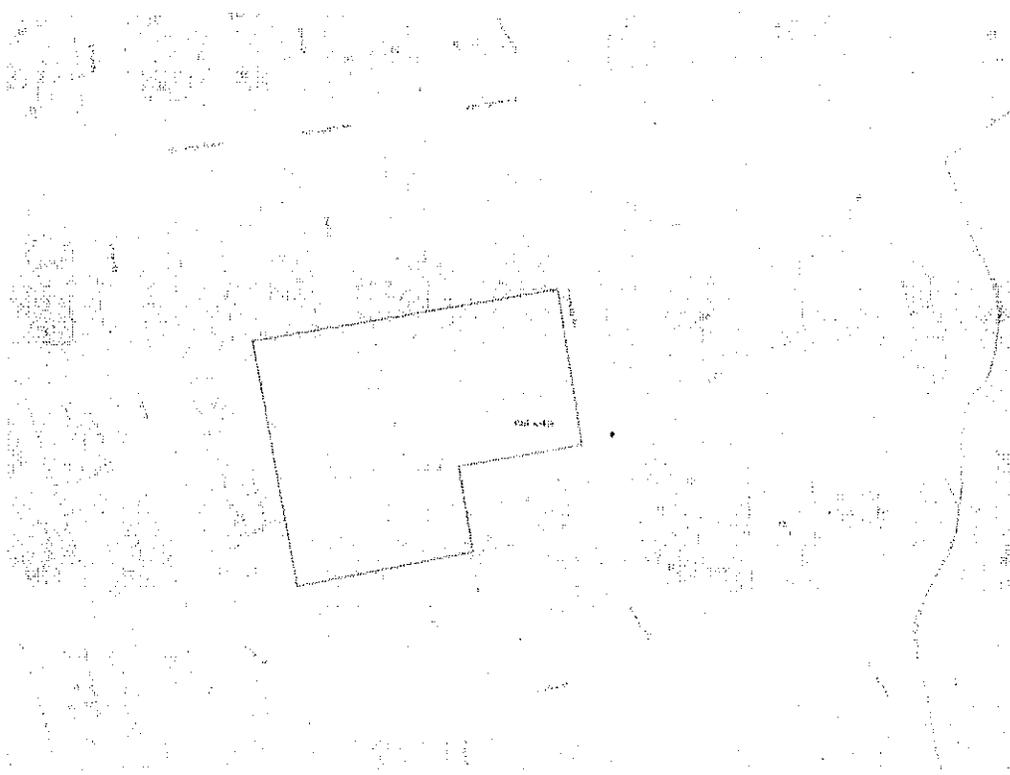


Figure 1: Subject Site and Surrounding (Source: Bergen County GIS)



Figure 2: Subject site with property boundaries approximated. (Source: Google Earth.)

B. Applicable Land Use Controls and Prior Approvals

The subject site is located in the R-15 One-Family Residential zone district. The zone permits those uses permitted in the R-40 Zone, including single-family detached dwellings, places of worship, municipal buildings and facilities, reservoirs or water supply reservations, and community residences. The bulk requirements for the district and the conformance by the proposed development are provided in the following section.

The Borough's Land Use Element of its Master Plan, adopted in 2009, identified the subject area as "Moderate Density Residential." This development category is described as follows:

The moderate density residential development category is designed to permit a density of approximately three dwelling units per acre. A majority of the eastern portion of the Borough is designated for this residential category. In addition to the eastern side of the Borough, there are several neighborhoods on the western side of the Borough that are designated for moderate density residential use, this includes a large area along the southern municipal border, west of Pascack Avenue. These neighborhoods have been developed with lots approximately 15,000 square feet in area.

The primary objective of this land use category is to compliment the character of the existing neighborhood by reinforcing setback requirements to ensure there is adequate light, air and open space associated with all new developments. (Page 20)

The subject site has been the subject of several recent applications before the Borough's land use boards. In 2010, the property owner at the time sought major subdivision approval and a soil movement permit from the Planning Board to subdivide the property into four separate lots. This application was later amended to reduce the number of proposed lots from four to three. This application required bulk variance relief for a lot width variance of 87 feet for one of the proposed lots along Rivervale Road (when 100 feet is required), as well as a street frontage variance for another lot (when 100 feet is required). The application would have also removed the nonconforming condition of two principal structures on one lot. One of the conditions of that approval included the establishment of a conservation easement over the defined wetlands areas that would restrict their use, preventing the installation of structures, pools, playgrounds, etc.

In 2012, the Applicant returned to the Planning Board, requesting reconsideration of three conditions of the prior approval, concerning the drainage easement and wetland areas. This included: Condition G1, which required a conservation easement on all lands west of the drainage easement which would require the area remain in its natural state; Condition G2, which required any future owner of the property subject to the drainage easement to be responsible for maintaining and cleaning the drainage structures on the easement; and, Condition G5, which required the Applicant to relocate the playground area to an area not encumbered by an isolated wetlands area. As part of this Application, the Applicant agreed to remove the playground area, eliminating the need for its relocation. The Board agreed to amend condition G2 to provide further clarification on the maintenance activities over the new drainage easement. Due to the importation of fill on the property, the Applicant was required to restore the transitional and wetland areas to the elevations approved by NJDEP. Condition G1 was eliminated, subject to conditions, as NJDEP

found that the area was located within an isolated wetlands transition area, including the preservation and maintenance of a drainage swale.

In 2013-2014 the property owner applied to the Zoning Board of Adjustment, seeking an interpretation to the Borough's outdoor parking requirements, concerning the storage of a backhoe tractor outside of a garage. The Board found that the ordinance would not either permit or prohibit the storage of such equipment within a fully enclosed structure in any residential zone.

C. Proposed Conditions

The Applicant is seeking to subdivide the subject tract into two lots. Proposed Lot 1.01 would contain 72,062 square feet (approximately 1.7 acres). This proposed lot would contain the two existing dwellings, shed, garage, and driveway, along with a majority of the existing wetlands and drainage easement. Proposed Lot 1.02 would contain 15,579 square feet and would contain space for the development of a single-family dwelling. This section of the tract is generally unimproved, with the exception of an existing perimeter fence and stone border. The plans do not indicate if any changes are proposed for these fences.

BULK REQUIREMENTS - R-15 SINGLE FAMILY RESIDENTIAL ZONE DISTRICT				
	Required	Existing Lot 1	Proposed Lot 1.01	Proposed Lot 1.02
Minimum Lot Area (sq. ft.)	15,000	87,641	72,062	15,579
Minimum Lot Width (ft)	100	187	100	87 (V)
Minimum Street Frontage (ft)	75	187	100	87
Minimum Lot Depth (ft)	150	374.2	374.2	178.2
Minimum Front Yard Setback (ft)	30	48.6	48.6	>30
Minimum Rear Yard Setback (ft)	45	266.2	266.2	>45
Minimum Side Yard Setback (ft)	18	48.9	15.4 (V)	>18
Maximum Dwelling Width	65% lot width 121.6 Existing Lot 1 65 Proposed Lot 1.01 56.6 Proposed Lot 1.02	*	*	>65% (V)
Maximum Building Height (ft)	32	24.3	24.3	<32
Maximum Building Coverage	20	3.2	3.8	<20
Maximum Impervious Coverage	35	7.7	9.4	<35
Maximum Floor Area Ratio	25%	**	**	**
Maximum Gross Floor Area (sq. ft.)	4,250	**	**	**
ENC-Existing Nonconforming Condition				
V-Variance				
*Applicant shall clarify				
**Not provided by Applicant				

D. Variances

Summary

Based on the information submitted to date, the Application requires the following variances:

1. "D(1)" or "D(2)" Use Variance for Principal Use.
2. "D(1)" or "D(2)" Use Variance for Number of Principal Buildings.
3. "D(1)" or "D(2)" Use Variance for Number of Principal Uses.
4. "C" Bulk Variance for Minimum Side Yard Setback.
5. "C" Bulk Variance for Minimum Lot Width.
6. ~~"C" Bulk Variance for Maximum Dwelling Width.~~

'd' Variances

1. Ordinance Section §101-8 (Schedule IV-4): Permitted Principal Uses:

The R-15 Zone District permits single-family detached dwellings, along with other uses noted in the previous section. A second dwelling unit is not permitted in the zone. Subdivision of this nonconforming condition where the two dwellings are intended to remain, albeit on a smaller lot, represents an expansion of a non-conforming use, which would require 'd(2)' use variance relief. In order for the Board to consider this application under the 'd(2)' standard, the Applicant shall provide evidence to the Board that the use on site was in existence prior to the zoning ordinance; otherwise, 'd(1)' use variance relief will be required.

2. Ordinance Section §101-11: Number of Principal Buildings:

The Zoning Ordinance prohibits more than one principal building on each lot in any district. As described above, subdivision of this nonconforming condition where the two principal buildings are intended to remain, albeit on a smaller lot, represents an expansion of a non-conforming use, which would require 'd(2)' use variance relief. In order for the Board to consider this application under the 'd(2)' standard, the Applicant shall provide evidence to the Board that the use on site was in existence prior to the zoning ordinance; otherwise, 'd(1)' use variance relief will be required.

3. Ordinance Section §101-12: Number of Principal Uses:

The Zoning Ordinance prohibits more than one principal use on each lot in any district. As described above, subdivision of this nonconforming condition where the two principal uses are intended to remain, albeit on a smaller lot, represents an expansion of a non-conforming use, which would require 'd(2)' use variance relief. In order for the Board to consider this application under the 'd(2)' standard, the Applicant shall provide evidence to the Board that the use on site was in existence prior to the zoning ordinance; otherwise, 'd(1)' use variance relief will be required.

Status of Pre-Existing Nonconforming Use:

Before considering the merits of the applicant's request to expand the nonconforming residential use, the Board should hear testimony demonstrating that the use is in fact a legal preexisting use. The Applicant must show that the use commenced prior to the adoption of the ordinance forbidding such uses in this zone district. The burden of proof that the Applicant would need to show are similar to an applicant for a certification of a nonconforming use pursuant to N.J.S.A. 40:55D-68. The Applicant would need to provide documentation as to the date of commencement as compared to the adoption of the R-15 Zone where a second residential unit is prohibited. Absent a showing of evidence that the use is in fact legally pre-existing nonconforming, the Board should treat the application as a new D(1) use variance.

Criteria for D(2) Expansion of Nonconforming Use Variance:

Pursuant to the Municipal Land Use Law, a "D" use variance requires the Applicant to demonstrate to the Board that the variance can be granted without substantial detriment to the public good and without substantial impairment of the intent of the zone plan and zoning ordinance. The Applicant also needs to demonstrate to the Board, by a showing of "special reasons", that the site is peculiarly suited for the particular use being proposed.

The Board should note that the court held, in *Kohl v. Mayor and Council of Fair Lawn*, 50 N.J. 268 (1967), that for existing nonconforming uses, the applicant need not show that the property would have been entitled to a variance for the initial nonconformity. However, the applicant must satisfy the same positive and negative criteria test as a D(1) use variance with a focus on the impacts associated with the proposed expansion.

Positive Criteria (Special Reasons):

The Applicant must demonstrate that the particular use is peculiarly fitted or particularly suitable to the site and its setting and that special reasons exist to support the grant of the variance application. These special reasons exist when one or more purposes of zoning are promoted (N.J.S.A. 40:55D-2).

The court also found in *Saddle Brook Realty v. Board of adjustment*, 388 N.J. Super. at 76, that there are three categories of circumstances where the "special reasons" may be found where: (1) the proposed use inherently serves the public good; (2) the property owner would suffer "undue hardship" if compelled to use the property in conformance with the permitted uses of the zone; or (3) the use would serve the general welfare because the "proposed site is particularly suitable for the proposed use".

The applicant should answer the following questions regarding the positive criteria:

- i. Does the proposed use inherently serve the public good?
- ii. Can the property accommodate any of the uses permitted within the R-15 Zone District without "undue hardship" to the property owner?
- iii. Why is this site in the R-15 Zone District particularly well-suited for the proposed use, where the proposed use is not permitted?
- iv. What public purpose is served by allowing this use within the R-15 Zone District?

The court also stated, with regards to the “substantial detriment to the zone plan and zoning ordinance” prong of the negative criteria, that “the added requirement that boards of adjustment must reconcile a proposed use variance with the provisions of the master plan and zoning ordinance will reinforce the conviction expressed in *Ward v. Scott* [11 N.J. 117 (1952)], the negative criteria constitute an essential ‘safeguard’ to prevent the improper exercise of the variance power” (107 N.J. 22). William Cox notes that the focus is on the “extent to which a grant of the variance would constitute an arrogation of governing body and planning board authority.”⁶

The applicant should provide the answers to the following questions regarding the negative criteria:

- v. What impact—aesthetic, noise, lighting, parking, traffic, etc.—would the grant of this use variance have on the surrounding properties?
- vi. In what ways does the proposed use lessen or substantially increase any adverse impacts on surrounding properties as compared to other uses permitted in this district that could be developed on this particular lot?
- vii. Are there any reasonable conditions that the Board could impose to mitigate any of the potential increased impacts from this proposed expansion of the nonconforming use?
- viii. Are there similar nonconforming uses nearby?
- ix. What changes have occurred in the community since the adoption of the Zoning Ordinance and Master Plan that would justify an approval for this particular use?

Negative Criteria:

The Applicant must demonstrate that the grant of the variances would not be substantially detrimental to the public good or substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance.

Regarding the “substantial detriment to the public good” prong of the negative criteria, the court affirmed in *Medici v. BPR Co.*, 107 N.J. 1, that the focus is on the impact of the proposed use variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good”.

'c' (Bulk) Variances

As noted above, the proposed development requires bulk variance relief from the following:

1. Ordinance Section §101-8 (Schedule IV-2): Minimum Side Yard Setback:

The R-15 Zone District requires a minimum side yard setback of 18 feet. The Applicant is proposing a minimum side yard setback of 15.4 feet for proposed Lot 1.01 from the lot line shared with proposed Lot 1.02. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

2. Ordinance Section §101-8 (Schedule IV-2): Minimum Lot Width:

The R-15 Zone District requires a minimum lot width of 100 feet. The Applicant is proposing a lot width of 87 feet for proposed Lot 1.02. Bulk variance relief is required to permit this deviation. Is relief cognizable under “C(1)” hardship or “C(2)” flexible variance provisions?

3. Ordinance Section §101-8 (Schedule IV-2): Maximum Dwelling Width:

The R-15 Zone District requires a maximum dwelling width of 65 percent of the lot width. While a detailed building footprint has not been provided for proposed Lot 1.02, the subdivision plan's bulk table indicates that the proposed dwelling will exceed 65 percent of the lot width.

N.J.S.A. 40:55D-70C: Municipal Land Use Law Requirements.

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible "C" variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

The Applicant should be advised that, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-70C), deviation from a bulk standard can be granted under either a "C(1)" hardship variance or a "C(2)" flexible variance.

A "C(1)" hardship variance can be granted to relieve peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of a specific piece of property that is uniquely affected by (a) exceptional narrowness, shallowness or shape, (b) exceptional topographic conditions or physical features, or (c) other extraordinary and exceptional situation affecting the property or the lawfully existing structures. For a "C(1)" variance, the Applicant must demonstrate that there is some specific physical feature of the property that prevents compliance with the ordinance.

A "C(2)" flexible variance requires the Applicant to demonstrate that the benefits of allowing the proposed deviation will substantially outweigh any detriments associated with the deviation. The Applicant must show that the requested "C(2)" variance will result in a better plan for the property.

For both "C(1)" and "C(2)" variances, the Applicant must also demonstrate to the Board that:

1. The purposes of zoning (see N.J.S.A. 40:55d-2) would be advanced by the proposed deviation. Furthering one or more purposes of zoning would indicate that there is a benefit to granting the proposed variance.
2. The variance can be granted without substantial detriment to the public good. The focus is on the impact of the proposed variance upon the adjacent properties and whether or not it will cause such damage to the character of the neighborhood as to constitute "substantial detriment to the public good".
3. The variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Applicant must demonstrate that the variance is not inconsistent with the intent and purpose of the ordinance requirements from which relief is sought.

E. Waivers/Exceptions

The Applicant has not requested any waivers/exceptions, nor have we identified any as part of our review.

F. Comments

1. The Applicant shall be prepared to provide the appropriate testimony concerning each of the variances identified in Section D above.
2. The bulk table provided by the applicant shows dwelling widths as a percentage of lot width. The Applicant shall clarify if the dwelling width calculations for existing Lot 1 and proposed Lot 1.01 account for one or both structures on the site.
3. As noted in the previous section, the Applicant has not provided detailed plans for the proposed dwelling on proposed Lot 1.02 at this time. The concept provided in the Subdivision Plan shows a proposed dwelling located near the front setback line, with a proposed driveway terminating at the front of the building. The Applicant shall note that 5101-62B prohibits off-street parking in a required front yard. Similarly, any development of the site shall comply with the Borough's requirements for garages and driveways.
4. Testimony shall be provided on the existing perimeter fence, and what, if any modifications are proposed as part of this development. While the fence is shown as an existing condition, the plans do not indicate that any sections will be added or removed. For example, a section of the fencing appears to be located in front of the area of the proposed residential structure. Similarly, it is not clear if fencing will be placed between the two lots. The Applicant shall clarify.
5. Our office defers to the Board Engineer on comments relating to any proposed site grading modifications.
6. The Applicant shall provide evidence of all outside agency approvals.
7. The Applicant shall comply with any applicable development fees.

We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Should you have any questions concerning the above comments, please do not hesitate to contact my office.

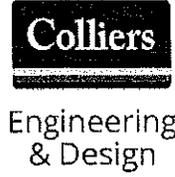
Sincerely,

Colliers Engineering & Design, Inc.
(DBA Maser Consulting)



Nicholas Dickerson, PP, AICP, CFM
Board Planner

Project No. PRZ-0012
July 8, 2022
Page 10 | 10



cc: Brian Giblin, Esq. Board Attorney (via email btgiblin@msn.com)
John J. Dunlea, PE, Board Engineer (via email jdunlea@negliaengineering.com)
John A. Conte, Jr., Esq., Applicant's Attorney (via email: jconte@mfrnclaw.com)
Christopher Lantelme, PE, Applicant's Engineer (via email: c111@verizon.net)

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**DEPARTMENT OF PUBLIC UTILITIES
BOROUGH OF PARK RIDGE**

53 PARK AVENUE
PARK RIDGE, N.J. 07656
TEL. 391-2129 * 391-3533 * FAX 391-7130
AREA CODE 201

Paul Longo
Director of Operations
plongo@parkingridgeboro.com

**ELECTRIC
WATER
ROADS
BLDGS AND GNDS
SEWER**

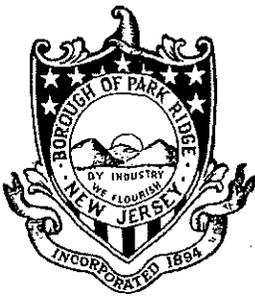
To: Park Ridge Planning Board
From: Chris O'Leary, General Water Supervisor
Date: July 25, 2022
Re: Re – 82 Rivervale Rd. Lot 1 Block 2007

The Electric Utility comments on the proposed plan.

After reviewing the plans for building on the lots on Rivervale whether overhead or underground, any future build in rear will need an easement obtained off local street for utility poles and wires.

Sincerely, Paul Longo

Director of Operations



BOROUGH OF PARK RIDGE WATER DEPARTMENT

53 Park Avenue
Park Ridge, NJ 07656
Tel: 201-391-3533
Fax: 201-476-9294

Chris O'Leary
General Supervisor

Water and Sewer

whahn@parkridgeboro.com

To: Park Ridge Planning Board
From: Chris O'Leary, General Water Supervisor
Date: 7/12/2022
Re: Re- 82 Rivervale Rd. Lot 1 Block 2007

The Water Utility comments on the proposed plan.

There is an existing 6" water main and an existing 8" Sanitary Sewer main in the R.O.W. of Rivervale Road.

Property owner is responsible for verifying the location of all existing utilities, water and sewer hookups, fees and permits.

Park Ridge will provide Corporation stop, Curb Stop and Valve box. A continuous piece of 1" K copper is required for the water service from the main to the meter inside. Ball valves must be installed on either side of meter. Meter is provided by water utility. If owner plans on using pex piping for inside house. Copper must be run from meter to ceiling of basement wall. Copper must be attached to wall with brass straps.

Sewer line installation must meet all building code requirements.

Tonya Tardibuono

From: Chief Madden <chief@parkridgepolice.com>
Sent: Tuesday, July 19, 2022 9:13 AM
To: Tonya Tardibuono
Subject: 82 Rivervale Rd

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Tonya,

We have reviewed the plans for the development of the property at 82 Rivervale Rd and we do not have any police related issues with them.

Chief Madden

Tonya Tardibuono

From: John Hansen
Sent: Monday, July 25, 2022 3:08 PM
To: Tonya Tardibuono; John J. Dunlea; Lepore, Tom; Paul Longo; Jim Leichtnam
Subject: RE: Reviews - 82 Rivervale Road

Tonya: I went over the plans with chief Lepore and we did not see any problems that we would be concerned with
Thank you
John Hansen
Fire Marshal

From: Tonya Tardibuono <ttardibuono@parkridgeboro.com>
Sent: Monday, July 25, 2022 9:35 AM
To: John J. Dunlea <jdunlea@negliaengineering.com>; John Hansen <jhansen@parkridgeboro.com>; Lepore, Tom <TomLepore@parkridge.k12.nj.us>; Paul Longo <plongo@parkridgeboro.com>; Jim Leichtnam <JLeichtnam@parkridgeboro.com>
Subject: Reviews - 82 Rivervale Road

Good Morning,

Friendly reminder 82 Rivervale Road - Please have application reviews to me on or before this Wednesday, July 25, 2022.

Paul/Jim – I have the water review, I am waiting on the electric review.

Regards,

Tonya Tardibuono
Zoning Officer
Planning & Zoning Boards Secretary
Board of Health Secretary / Deputy Registrar
Borough of Park Ridge
53 Park Avenue
Park Ridge, NJ 07656
201-391-5673

<http://www.parkridgeboro.com>

