

# TOWNSHIP OF MIDDLETOWN

## Planning Board

One Kings Highway, Middletown, NJ 07748-2594

DAVID MERCES  
Chairman



Organized December 14, 1667  
"Pride in Middletown"

AMY H. CITRANO, P.P., A.I.C.P.  
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### TECHNICAL MEMORANDUM

DATE: February 16, 2023  
BOARD: Planning Board  
APPLICATION: Rosina Landi  
4 and 4B Old Colonial Road (Block 591, Lot 15)  
Minor Subdivision with Variances  
Application #: 2022-106

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### PROJECT DESCRIPTION

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The applicant proposes to subdivide an existing 42,251 square feet lot, known as Block 591, Lot 15, into two (2) new lots, Lots 15.01 and 15.02. The subject property is located on the southerly side of Old Colonial Road (8' ROW) and developed with a two-family dwelling, two concrete patios to the rear of the dwelling, deck to the south, in-ground swimming pool and surrounding concrete deck, and three (3) sheds.

New Lot 15.01 will contain 23,906 square feet and maintain 205' of frontage on Old Colonial Road. New Lot 15.01 will contain the existing 4,000 square feet two-story, two-family dwelling, two concrete patios off the rear of the dwelling, concrete driveway and front walks, paved driveway adjacent to Old Colonial Road, gravel driveway/parking area. The deck to the south of the dwelling will be removed. A 15' wide access and utility easement is proposed along the westerly border of New Lot 15.01 to extend onto New Lot 15.02 for the benefit of Lot 15.02.

New Lot 15.02 will total 18,345 square feet and proposed to contain a 7,362 square feet, two-story, single family dwelling with a one-car garage. New Lot 15.02 will contain the existing in-ground pool and surrounding concrete deck (a portion to be removed), the easterly-most shed and adjacent gravel driveway/parking area. The pool will be enclosed with a metal pool fence. Access and utilities will be provided via a 15' wide easement from Old Colonial Road through New Lot 15.01, and terminate as a stub. The stub is proposed to accommodate two parking spaces. The westerly-most shed will be removed to accommodate a proposed 6' wide by 30' long by 4' deep dry well.

#### "Planning Variance":

A "Planning Variance" is required for New Lot 15.02 to permit the construction of buildings that front upon a street not improved to Township standards. New Lot 15.02 will have 0' of street frontage. Access to the proposed lot will be via 15' wide access and utility easement traversing through New Lot 15.01. The easement will terminate in a stub and proposed to accommodate two (2) parking spaces.

### **Many Neighborhoods. One Middletown!**

Belford ◊ Chapel Hill ◊ Fairview ◊ Harmony ◊ Leonardo ◊ Lincroft ◊ Locust ◊ Middletown Village  
Monmouth Hills ◊ Navesink ◊ New Monmouth ◊ North Middletown ◊ Nut Swamp ◊ Oak Hill ◊ Port Monmouth ◊ River Plaza

Bulk “C” Variances:

The subject property is located in the Residential Two Family (RTF) Zone and permits both single- and two-family dwellings. New Lot 15.02 is proposed to contain a single family dwelling and shall be governed by the Residential (R-7) Zone Standards. New Lot 15.01 is proposed to contain the existing two- family home and governed by the RTF Zone standards. Bulk “C” Variance relief is required for:

- New Lot 15.01 (existing two-family dwelling):
  - 540-915.C(3) requires that each lot within a two-family housing development which contains two dwellings shall have a master deed recorded which shall set forth the rights, responsibilities and privileges of the occupants and/or owners of each dwelling unit. The applicant shall address conformance with this zoning provision.
  - 540-915.B(2)(b) Maximum lot coverage permitted is 35% and 48.5% is proposed
- New Lot 15.02 (proposed single family dwelling)
  - Minimum lot frontage where 0’ is proposed, and 75’ is required.
  - Maximum lot and building coverages shall be recalculated as per the R-7 Zone standards to verify compliance. Additionally, the existing in-ground swimming pool appears to exceed 800 sf of surface area and shall be include in the proposed lot coverage calculation.

Existing non-conforming conditions:

- New Lot 15.01 contains frontage a street (Old Colonial Road- 8’ paved ROW) not improved to Township standards.
- New Lot 15.02 will contain an existing shed that has 0.5 side yard setback, and 10’ is the minimum required.
- New Lot 15.01 - Paved parking areas are setback 0’ from the side property line, and a 5’ setback is the minimum required.

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**PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USE**

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The subject property is located on the southerly side of Old Colonial Road (8’ paved ROW) and developed with a two-family dwelling, two concrete patios to the rear of the dwelling, deck to the south, in-ground swimming pool and surrounding concrete deck, and three (3) sheds, of which two will be removed.

The subject property is located in the Two Family - Residence (RTF) Zone. The subject property is surrounded by uses in the RTF Zone, except for the west of the property which includes uses in the R-22 Zone. Residential uses surround the site.

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**PLANNING COMMENTS**

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1. “Planning Variance”

*Construction Along an Unimproved Roadway* – New Lot 15.02 will have 0’ of street frontage. Access to the proposed lot will be via 15’ wide access and utility easement traversing through New Lot 15.01, and therefore a variance to construct a dwelling is required.

- a. The applicant is seeking what is commonly referred to as a “Planning Variance.” The Planning Board may grant a variance to permit the construction of a building that fronts upon a street that has not been improved to Township standards - as long as the following conditions are satisfied:

- i. Adequate access for firefighting equipment, ambulances and other emergency vehicles is provided to ensure the protection of health and safety. We defer to the Fire Advisory Board review in the proposed access is adequate for emergency vehicles; and
- ii. The future street layout shown on the official Township map is preserved.

Additionally, the applicant must demonstrate to the Board that the circumstances of the case do not require the residence to be related to a street, or that disallowing the construction of a residence on the subject lot will entail practical difficulty or unnecessary hardship.

- b. Roadway Construction – The applicant should discuss why it is undesirable or impractical to construct a 28’ wide paved roadway at this time. Are there unique environmental features within the right of way worthy of preservation?
  - c. Roadway Maintenance – Approval shall be contingent upon the applicant accepting full responsibility to construct and maintain the access and utility easement.
2. Bulk “C” Variations - Bulk “C” Variance relief is required for:
- New Lot 15.01 (existing two-family dwelling):
    - 540-915.C(3) requires that each lot within a two-family housing development which contains two dwellings shall have a master deed recorded which shall set forth the rights, responsibilities and privileges of the occupants and/or owners of each dwelling unit. The applicant shall address conformance with this zoning provision.
    - 540-915.B(2)(b) Maximum lot coverage permitted is 35% and 48.5% is proposed
  - New Lot 15.02 (proposed single family dwelling)
    - Minimum lot frontage where 0’ is proposed, and 75’ is required.
    - Maximum lot and building coverages shall be recalculated as per the R-7 Zone standards to verify compliance. Additionally, the existing in-ground swimming pool appears to exceed 800 sf of surface area and shall be include in the proposed lot coverage calculation.

In making a case for variance relief pursuant to NJSA 40:55D-70(c), the applicant should provide testimony that there are specific physical characteristics such as lot shape or narrowness that cause difficulty with complying with the ordinance requirement. Testimony should be provided that the purposes of the Municipal Land Use Law would be advanced by the deviation from the zoning ordinance requirement, that the variance can be granted without substantial impact to the public good, and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

3. Design Waiver - 540-646 prohibits private swimming pools within any required front, street side or street rear yard setback of any lot, and the existing swimming pool is proposed to remain on New Lot 15.02 and located within the front yard. A design waiver is required.
4. Home Occupation - This office conducted a site visit on February 15, 2023. At that time, there were several parked vehicles including cars, vans, trailers and a box truck located on the subject property. Testimony shall be provided if the applicant is operating a home occupation to ensure compliance with 540-520 and the definition of “home occupation.”
5. Sidewalk – Section 540-634A requires sidewalk construction along existing street frontages. There is no sidewalk proposed. Should the Board choose to waive sidewalk installation, then a contribution in lieu to the Township Sidewalk Trust Fund would be required.
6. Street Trees – As per Section 540-645C, street trees (30’ on center) are required and none are proposed. Street trees shall be provided.

7. The building envelope and zoning table on the minor subdivision plan for New Lot 15.02 shall be revised as per the R-7 Zone standards.
8. The minor subdivision plan identifies a 24" Oak adjacent to the proposed access and utility easement. Will this tree be preserved and if so, it shall be marked for preservation on the grading plan
9. The subject property contains a well. Middletown Health Department shall review and approve the existing well.
10. The plan shall indicate the proposed relocation of the pool equipment to verify compliance with 540-646.
11. Applicant shall discuss proposed method of garbage removal.
12. New lot numbering shall be subject to review and approval by the Tax Assessor.
13. Grading plan approval will be required from the Township Engineer prior to the issuance of a building permit for New Lot 15.02. This shall be made a Condition of Approval.
14. All utilities shall be installed underground in conformance with RSIS standards.
15. Approving Agencies - Final approval or letter of no jurisdiction should be obtained from the following agencies and any other agencies having jurisdiction.
  - Monmouth County Planning Board
  - Freehold Soil Conservation District
  - TOMSA
  - Middletown Township Fire Advisory Board
  - Middletown Township Engineering
  - Middletown Tax Assessor
  - Middletown Health

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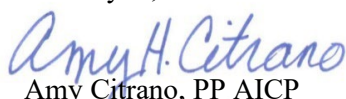
#### **DOCUMENTS REVIEWED**

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- Minor Subdivision of Lot 15 Block 591, consisting of two (2) sheets, prepared by Richard Karl Heuser, P.E. & L.S., dated May 27, 2022, last revised January 5, 2023;
- Freshwater Wetlands Report for Block 591, Lot 15, consisting of one (1) sheet, prepared by Richard K. Heuser, P.E. & L.S., dated January 5, 2023;
- Waiver Request prepared by Richard Heuser, PE and LS, dated November 9, 2022;
- Architectural Plans, consisting of three (3) sheets, prepared by Brick City Reconstruction, dated October 19, 2022;
- Zoning Officer's Denial dated August 8, 2022;
- Development Permit Application dated July 12, 2022;
- Topographic Survey of Lot 15 Block 591 consisting of one (1) sheet, prepared by Richard Karl Heuser, P.E. & L.S., dated June 16, 2021;
- Deed for 4 Old Colonial Road (Block 591, Lot 15); and
- Project Narrative prepared by Richard Heuser, PE and LS, undated.

I reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Thank you,

  
Amy Citrano, PP AICP  
Planning Director

