

TOWNSHIP OF MIDDLETOWN

Planning Board

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TECHNICAL MEMORANDUM SECOND REVIEW

DATE: April 21, 2023 (1st Review 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

The applicant submitted revised plans and our memo has been updated. New text is marked in **BOLD**, and text no longer applicable is ~~struck out~~. Notable changes to the proposal include:

- **Removal of the proposed 15' wide access and utility easement along the westerly border of New Lot 15.01 for access to New Lot 15.02**
- **Proposed flag lot (New Lot 15.02) and removal of existing pool and decking**
- **Decrease in area and frontage for New Lot 15.01**
- **Proposed in-ground swimming pool on New Lot 15.01**
- **Elimination of variances for lot coverage for both new lots**

PROJECT DESCRIPTION

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 two sheds.

New Lot 15.01 will contain **25,084.82 square feet** ~~23,906 square feet~~ and maintain **169.85'** ~~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, shed,~~ concrete driveway and front walks, paved driveway adjacent to Old Colonial Road, gravel driveway/parking area. **An in-ground swimming pool is proposed to the rear of the existing dwelling. Both concrete patios to the rear and 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 **15,526.35 square feet** ~~18,345 square feet~~ and **35' of lot frontage along Old Colonial Road.** **New Lot 15.02** is proposed to contain a 7,362 square feet, two-story, single-family dwelling, with a one-car garage, **and driveway.** ~~New Lot 15.02 will contain the~~ **The** existing in-ground

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pool and surrounding concrete deck **will be removed.** ~~(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”:

Relief, known as a “Planning” variance is required for the existing roadway width for Old Colonial Road. Section 540-504A requires every principal building to be built with frontage on an improved street, and Old Colonial Road does not comply to Township standards for roads.

~~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.~~

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'~~ **35.41'** 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 Lots 15.01 and 15.02 will contain frontage on 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.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USE

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 two (2) 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.

PLANNING COMMENTS

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” Variance - 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 15.01 existing driveway encroaches onto New Lot 15.02. The existing driveway shall be modified to be setback at least 5’ from the shared lot line.**
- New Lot 15.02 (proposed single family dwelling)
 - Minimum lot frontage where ~~0-~~ **35.41’** 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.” **Addressed.**
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. **Continuing comment.**
6. Street Trees – As per Section 540-645C, street trees (30’ on center) are required and none are proposed. Street trees shall be provided. **Addressed.**
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. **Partially addressed. The building envelope for New Lot 15.02 shall be revised to match the shape of the lot.**
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. **Continuing comment.**
9. The subject property contains a well. Middletown Health Department shall review and approve the existing well. **Continuing comment.**
10. The plan shall indicate the proposed relocation of the pool equipment to verify compliance with 540-646. **The revised plans remove the existing pool and propose a new pool on New Lot 15.01. The pool equipment shall be indicated to verify conformance.**
11. Applicant shall discuss proposed method of garbage removal. **Continuing comment.**
12. New lot numbering shall be subject to review and approval by the Tax Assessor. **Continuing comment.**
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. **Continuing comment.**
14. All utilities shall be installed underground in conformance with RSIS standards. **Continuing comment.**
15. Approving Agencies - Final approval or letter of no jurisdiction should be obtained from the following agencies and any other agencies having jurisdiction. **Continuing comment.**
 - Monmouth County Planning Board
 - Freehold Soil Conservation District
 - TOMSA
 - Middletown Township Fire Advisory Board
 - Middletown Township Engineering
 - Middletown Tax Assessor
 - Middletown Health

DOCUMENTS REVIEWED

- 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 **April 11, 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 H. Citrano
Amy Citrano, PP AICP
Planning Director

LOCATION MAP

