

JOINT LAND USE BOARD OF THE BOROUGH OF DUMONT

RESOLUTION

MINOR SUBDIVISION APPROVAL AND VARIANCE RELIEF

In the Matter of the Application of
Andrew LoGuerio

WHEREAS, Andrew LoGuerio (the "Applicant") is the owner of the property located at 381 West Madison Avenue, designated as Lot 1 in Block 1102 on the Tax Map of the Borough of Dumont (the "Property"); and

WHEREAS, the Applicant has made application to the Joint Land Use Board of the Borough of Dumont (the "Board") for Minor Subdivision Approval pursuant to the Development Ordinance of the Borough of Dumont, together with application for variance relief pursuant to N.J.S.A. 40:55D-70(c)(1) and (c)(2) for variances from the bulk requirements of the Borough and for other relief; and

WHEREAS, a public hearing was held by the Zoning Board of Adjustment on April 28, 2014 at which time the Applicant, represented by counsel, Richard D. Kelly, Esq., who (a) presented proof of notice and publication as required by law; (b) submitted to the Board (i) the Minor Subdivision Plan, the Soil Erosion and Sediment Control Plan, and the Existing Conditions Plan, prepared by Hubschman Engineer, PA, dated

December 3, 2014; and (ii) an Aerial Photograph of the Property and the Area; (c) presented the testimony of (i) Michael Hubschman, PE, PP, a principal of the firm of Hubschman Engineering; (ii) Applicant Andrew LoGuerio; and

WHEREAS, the Board has reviewed the Application and other evidence submitted, having considered the reports of: (i) Boswell McClave Engineering, dated April 22, 2015; and (ii) Maser Consulting, dated April 20, 2015.

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with respect to the within Application:

1. The Property is 18,116 square feet and is located at the intersection of Hillside Avenue and West Madison Avenue. The Property is in the RA Zoning District and currently contains a 2.5 story, older, single family home.

2. The Applicant proposes to demolish the existing home and subdivide the Property into 3 lots, each to contain a single family home. The proposed Lots, and any home constructed thereon, would be conforming to all zoning, setback and yard requirements except as follows:

	Required	Lot 1.03	Lot 1.02	Lot 1.01
Lot Area	7,500 sf	5,936 sf	6,082 sf	6,098 sf
Lot Frontage	75'	54.64'	60'	60'

3. The application requests variance relief from the deviations set forth above pursuant to N.J.S.A. 40:55D-70(c).

4. At public hearing, the Applicant presented the testimony of the Project Engineer and Planner, Michael Hubschman, PE, PP. Mr. Hubschman testified as to all matters of engineering concern. He testified as to the present and proposed conditions on the Property as well as all relevant existing property dimensions. He testified that each of the proposed lots would have an actual frontage of approximately 66' but that the corner lot measured to a smaller distance due to the radius and curve of the corner and that all Lots would front on Hillside Avenue. He testified that the Applicant sought no variances but for those specified herein and that it was anticipated that the homes would be fully conforming or that they would require additional approvals as each individual home was designed. He testified that no variances were being sought for the construction of the homes and that each Lot could accommodate a 2,600 square foot home.

5. Hubschman testified that site drainage currently slopes toward the street and are drained by "surface" flow. Each Lot will not have seepage pits and meet the requirement for "0" runoff.

6. Hubschman testified that there were 32 Lots within 200' of the Property. Of these, 26 have a 60' frontage or less. 18 have a frontage of 50' or less. Only 6 have a frontage of over 60'. As a result, Mr. Hubschman concluded that the frontages proposed are consistent with the area and neighborhood of the Property.

7. Hubschman testified that the Application was subject to County Approval and that the proposed development removed an existing driveway from Madison Avenue which offered a safety and benefit to traffic flow.

8. Hubschman testified that he reviewed the Borough's zoning ordinances and the Borough's Master Plan. He concluded that the residential use was consistent with the Master Plan, Zoning Ordinance and the neighborhood. He testified that the Applicant meets both the positive and negative criteria of the project for the purposes of the MLUL and that the positive criteria warrant the granting of the variances based on the criteria for a "flexible c" variance for lot area and frontages of each of the Proposed Lots.

9. The public was invited to speak after testimony was given, and questions and comments were offered by the public.

CONCLUSIONS AND DETERMINATIONS

10. All findings of fact set forth above are made a part hereof as if set forth herein at length.

11. The proceedings in this matter were voice recorded. The foregoing facts in this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

12. N.J.S.A. 40:55D-70(c) (2) provides that a variance may be granted where the Board finds that the purposes of the Municipal Land Use Law ("MLUL") would be advanced by a deviation from the zoning requirements and that the benefits of the deviation would substantially outweigh any detriment. The Board finds that the benefits of the proposed improvements substantially outweigh any possible detriment. The Board further finds that the purposes of the MLUL are advanced by this Application by promoting a more desirable visual environment, providing homes in the residential zone that are in conformance with the homes in the area and creating lots that are consistent with the neighborhood.

13. The Board finds that the variances can be granted without detriment to the public good or any neighboring properties, as the non-conforming conditions are de minimus in nature. The Board further finds that this approval will not substantially impair the intent and purpose of the Dumont Zone Plan and Zoning Ordinance and is in the furtherance of the purposes set forth in N.J.S.A. 40:55D-2.

14. As such, the granting of the variances is appropriate as the purposes of the MLUL are advanced and by so doing, the benefits substantially outweigh any detriment from the deviations.

NOW, THEREFORE, BE IT RESOLVED that the application for Minor Subdivision and variance relief is approved by this Board subject to the conditions set forth below.

CONDITIONS

A. The Applicants shall comply with all of the ordinances of the Borough of Dumont and all applicable county, state, and federal ordinances, rules, statutes and regulations including the payment of real estate taxes. Without limiting the foregoing, the Applicants shall comply with any and all applicable requirements of the Federal Americans with Disabilities Act.

B. The approval of the within Application does not constitute a determination by this Board as to whether the proposed development complies with the Federal Americans with Disabilities Act or the applicable regulations thereunder.

C. The Applicants shall comply with all of the stipulations made during the hearing on this Application.

D. This approval is conditioned upon the Applicants' submission to the Board Engineer and Board Planner for review and approval plans.

E. The Applicant shall comply and obtain all necessary Approvals as may be required from the County, State or other approving entity.

F. The Applicant shall execute a Developer's Agreement.

* Street Trees 40-50' on CTR.

This Application was approved by the Dumont Zoning Board of Adjustment upon a roll call vote of all members eligible to vote at its regular meeting on April 28, 2015.

IT IS HEREBY CERTIFIED that this is a true and correct copy of a Resolution adopted by the Zoning Board of Adjustment of the Borough of Dumont upon a roll call vote at its regular meeting held on April 28, 2015.

A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel), Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

SO APPROVED:



, Secretary



WILLIAM BOCHICCHIO, Chairman

Date of Adoption: