

**RESOLUTION
TOWNSHIP OF HOWELL PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
AMENDED PRELIMINARY AND FINAL
MAJOR SUBDIVISION APPROVAL WITH ANCILLARY
BULK VARIANCE AND DESIGN WAIVER RELIEF**

**Approved: October 5, 2023
Memorialized: December 14, 2023**

IN THE MATTER OF LARRABEE REALTY, LLC

APPLICATION NO. SD-2997A

WHEREAS, an application for amended preliminary and final major subdivision approval with ancillary bulk variance and design waiver relief has been made to the Howell Township Planning Board (hereinafter referred to as the “Board”) by Larrabee Realty, LLC (hereinafter referred to as the “Applicant”), on lands known and designated as Block 24, Lot 11.04 as depicted on the Tax Map of the Township of Howell (hereinafter “Township”), and more commonly known as 72 Larrabee Boulevard in the R-2 (Residential) Zone; and

WHEREAS, a public hearing was held before the Board on October 5, 2023 via remote Zoom conference with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant’s consultant, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Howell Township Planning Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains one (1) acre with 201.14 feet of frontage along Larrabee Boulevard within the R-2 Residential (“R-2”) Zoning District. The subject Property is located between Calloway Street and Lakewood Farmingdale Road and is improved with a +/-1,295 square foot dwelling as well as a detached garage, gravel patio, and koi pond. All improvements are located within the southeastern portion of the subject Property, while the remainder of the lot is generally wooded. Access to the subject Property provided from Larrabee Boulevard via a stone driveway.

2. The Applicant recently received preliminary and final major subdivision approval from this Board on October 7, 2021 permitting the existing lot to be subdivided into two (2) new lots to be known as: Lot 11.041 and Lot 11.042. At that time, temporary relief was granted to permit the existing dwelling to remain until it was eventually razed and a new conforming dwelling was constructed. Condition #4 of the Resolution allowed the existing dwelling to remain for twelve (12) months from the date of the memorialization of the Resolution (January 6, 2022), which time expired on January 6, 2023.

3. The Applicant is now seeking Amended Preliminary and Final Major Subdivision approval to extend the twelve (12) month time period contained in Condition # 4 in the Resolution for an additional eighteen (18) months which would expire on July 6, 2024.

4. Counsel for the Applicant, Jared Pape, Esq., stated that the Applicant was seeking to amend the condition of the Resolution requiring that the existing dwelling be demolished by January 6, 2022. He stated that Condition #4 of the Resolution stated that the temporary variance relief would expire twelve (12) months from the date of the memorialization of the resolution, which was January 6, 2023.

5. Mr. Pape explained that the Applicant was seeking to extend the time to permit the temporary variance relief. He stated that the Applicant had experienced economic challenges in developing the site. Mr. Pape noted that the current application for amended preliminary and final major subdivision had been submitted in March of 2023. He explained that the application originally desired to amend the condition to extend the time to January 6, 2024. However, he explained that considering the time of the hearing, there would not be sufficient time to comply with the date of January 6, 2024. Mr. Pape, therefore, stated that the Applicant was now seeking to amend the condition to extend the temporary variance relief for eighteen (18) months to July 6, 2024.

6. In response to a question from the Board Attorney, Mr. Pape represented that the Applicant expected to be able to demolish the existing dwelling by Spring 2024.

7. The Board Planner and the Board Engineer both stated that they took no exception to the amended condition.

8. There were no members of the public expressing an interest in this application.

WHEREAS, the Howell Township Planning Board, having reviewed the proposed application and having considered the impact of the proposed application on the Township and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Township of Howell; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's request for amended preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-48 and final major subdivision approval pursuant to N.J.S.A. 40:55D-50 along with

ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 should be granted in this instance.

The Board finds that the Applicant is proposing a permitted use but does require temporary bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a

Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds that the Applicant has satisfied the positive criteria to be granted temporary variance relief. The Board incorporates its prior findings on variance relief herein by reference. The Applicant continues to propose two (2) lots which will ultimately conform with all bulk standards. The Applicant, however, has a temporary timing issue with regard to the phased development of the lots. The Board continues to find that the ultimate subdivision will continue to promote the goals of planning enumerated in the Municipal Land Use Law at N.J.S.A. 40L55D-2 because of this compliance. The temporary non-compliance is also de minimis in nature and will last no later than the July 6, 2024. The Board therefore concludes that the positive criteria has been satisfied.

The Board further finds that the negative criteria continue to be satisfied. As previously stated, the non-compliance is de minimis and not particularly visually perceptible. It will also be limited in duration and not increase population density, noise or traffic. The Board therefore continues to find that there will not be any substantial detriment or impairment to the zone plan, zoning ordinance or public welfare. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2)

The Board now addresses the required design waiver relief. The Board finds that the Applicant had previously been granted design waiver relief from providing sidewalks because the surrounding area does not contain an existing sidewalk network and that construction of a sidewalk would unnecessarily disturb the existing curbing as well as create difficulty in

providing sufficient drainage. The Board continues to find that strict enforcement of the design criteria would result in practicable difficulty and that design waiver relief pursuant to N.J.S.A. 40:55D-51 continues to be appropriate.

The Board continues to find that with the exception of the above, the Applicant will comply with all zoning, subdivision and design criteria ordinance requirements. Amended preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-48 and final major subdivision approval pursuant to N.J.S.A. 40:55D-50 are therefore appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Howell on this 14th day of December, that the action of the Planning Board taken on October 5, 2023, granting Application No. SD-2997A of Larrabee Realty, LLC for amended preliminary major subdivision approval pursuant to N.J.S.A. 40:55D-48 and final major subdivision approval pursuant to N.J.S.A. 40:55D-50 along with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this resolution, the Applicants shall comply with all recommendations contained in the Reports of the Board's Professionals.
3. The conditions of previous approvals, except where specifically modified within, shall remain in force.
4. The temporary variance relief shall expire eighteen (18) months from the date of expiration of initial temporary variance relief on July 6, 2024.

5. The Applicant shall provide a certificate that taxes are paid to date of approval.
6. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Howell, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicants' expense and to send a certified copy of this Resolution to the Applicants and to the Township Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Paul Boisvert, Chairman
Howell Township Planning Board

ON MOTION OF:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAINED:

ABSENT:

DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Howell Township Planning Board, Monmouth County, New Jersey at a public meeting held on December 14, 2023.

Eileen Rubano, Secretary
Howell Township Planning Board

HOWELL TOWNSHIP PLANNING BOARD

EXHIBITS

SD-2997A / Larrabee Realty, LLC

Amended Preliminary and Final Major Subdivision with Ancillary Variance Relief

July 20, 2023

August 3, 2023

August 17, 2023

October 5, 2023

- A-1 Development application
- A-2 Application Checklist
- A-3 Submission Letter prepared by Kenneth L. Pape, Attorney, dated 3/7/23
- A-4 Waiver Request Letter prepared by Kenneth L. Pape, Attorney, dated 3/7/23
- A-5 Prior Resolution for Case No. SD-2997, Larrabee Realty, LLC, dated 10/7/21

INTEROFFICE REPORTS

- B-1 Board Engineer's review letter dated 4/17/23
- B-2 Monmouth County Board of Health memo dated 4/17/23
- B-3 Board Engineer's completeness memo dated 5/19/23

NOTICE

PLEASE TAKE NOTICE THAT ON OCTOBER 5, 2023 THE PLANNING BOARD OF THE TOWNSHIP OF HOWELL GRANTED AMENDED PRELIMINARY AND FINAL MAJOR SUBDIVISION APPROVAL WITH ANCILLARY BULK VARIANCE AND DESIGN WAIVER RELIEF TO LARRABEE REALTY, LLC, FOR BLOCK 24, LOT 11.04 AS DEPICTED ON THE TAX MAP OF THE TOWNSHIP OF HOWELL, AND MORE COMMONLY KNOWN AS 72 LARRABEE BOULEVARD, HOWELL TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY, APPLICATION NUMBER SD-2997A PERMITTING AN EIGHTEEN (18) MONTH EXTENSION OF TIME FOR THE TEMPORARY VARIANCE RELIEF. MAPS AND ACCOMPANYING DOCUMENTS ARE AVAILABLE FOR REVIEW IN THE OFFICE OF THE PLANNING BOARD, HOWELL TOWNSHIP MUNICIPAL BUILDING, 4567 ROUTE 9 NORTH, HOWELL, NEW JERSEY.

LARRABEE REALTY, LLC