

PLANNING BOARD MEETING MINUTES – MAY 13, 2020

The monthly Planning Board meeting was called to order at 7:30 PM by Mr. Phelps I who read the following statement: Adequate notice of this meeting held this **13 day of May, 2020** has been provided through resolution adopted by this Board at its stated annual meeting held at the Town Hall on January 8, 2020 and by posting a copy of the resolution in the Town Hall and by mailing the resolution to the Citizen and the Daily Record which are published in New Jersey and which circulate in the Town of Boonton and by filing a copy of the same with the clerk of the Town of Boonton.

In accordance with the Open Public Meetings Act, N.J.S.A. et seq., and more specifically N.J.S.A. 10:4-8(b), which authorizes the use of communications equipment to hold public meetings, and in consideration of Executive Order 107 issued by Governor Phil Murphy and guidance provided by the New Jersey Department of Community Affairs, Division of Local Government Services, the Town of Boonton hereby notifies the public that in order to protect the health, safety and welfare of its citizens, while ensuring the continuity and continued operations of government, the Boonton Planning Board will held its regularly scheduled public meeting by way of a dial in conference call on Wednesday, May 13, 2020, beginning at 7:30 PM. During the public session, members of the public were muted until the public comment portion of the meeting was opened, and then unmuted to allow for public comment. While muted, the public was still be able to hear the Planning Board conduct business.

Members of the public who were unable to utilize the access method(s) due to a disability could submit written comments or questions by contacting the Board Secretary at mmarcello@boonton.org prior to the meeting, up until Wednesday, May 13, 2020 at 3:00 PM.

After the flag salute, the secretary called the roll: Mr. Phelps, Mr. Brewer, Mr. Looker, Mr. MacNeal, Mr. Orlusky, Mr. Wrobel, Ms. DeVenezia and Mayor Corcoran were present. Mr. Venturini was absent

Matthew Posada, Atty., and Jeff Janota, Planner, were present to represent the Board.

PAYMENT OF BILLS: - All bills in order. A motion was made and seconded to pay all bills submitted. All in favor. Motion carried.

MINUTES

The minutes of the March 11, 2020 meeting action were not ready to be accepted.

CORRESPONDENCE – NONE

2019 PLANNING BOARD ANNUAL REPORT – The report was prepared and submitted by H2M. Mr. Janota gave a brief overview of the report. The Secretary will place the file the report.

**RESOLUTION OF APPROVAL
APPLICATION 2019-6
WAQAR ENTERPRISES LLC
BLOCK 96, LOT 8**

SEE ATTACHMENT 1

A motion was made and seconded to approve the Resolution. **ROLL CALL:** Messrs. Brewer, Looker, MacNeal, Orlusky & Phelps. Mr. Venturini was absent. Motion carried.

**RESOLUTION OF APPROVAL
APPLICATION 2020-1 TAJ ENTERPRISES, INC.
BLOCK 81, LOT 15 – 218 WASHINGTON ST.
VARIANCE FOR CONVERSION TO TWO FAMILY**

SEE ATTACHMENT 2

A motion was made and seconded to approve the Resolution. **ROLL CALL:** Messrs. Brewer, Looker, MacNeal, Orlusky & Phelps. Mr. Venturini was absent. Motion carried.

**RESOLUTION OF APPROVAL
APPLICATION 2020-2 DI MARCO
MINOR SUBDIVISION
166 RESERVE ST. – BLOCK 114, LOT 7**

SEE ATTACHMENT 3

A motion was made and seconded to approve the Resolution. **ROLL CALL:** Messrs. Brewer, Looker, MacNeal, Orlusky & Phelps, Mr. Corcoran and Ms. DeVenezia - YES. Mr. Venturini was absent. Motion carried.

PUBLIC HEARING:

**APPLICATION 2020-3 AKCAY
MINOR SUBDIVISION WITH VARIANCES
BLOCK 59, LOT 2 – 426 CORNELIA ST.
Carried to June 10, 2020 meeting.**

Meeting open to the public. No members of the public spoke.

A motion was made and seconded to adjourn at 8:00 PM.

Respectfully submitted,
Marianne Marcello, Board Secretary

**ATTACHMENT 1
RESOLUTION 2019-6
WAQAR ENTERPRISES LLC
9 PAGES**

1. The Applicant has provided the required written notice to property owners, and where required by law, those utilities that have requested written notice of applications. The Applicant has also provided proof of timely publication of the notice in a newspaper designated by the Town of Boonton for publication of legal notices. Proof of payment of taxes were also presented. The Board therefore has jurisdiction to determine this matter.

2. This Board serves as a combined Planning Board and Board of Adjustment pursuant to N.J.S.A. 40:55D-25(c). For purposes of this application, this Board sat as a Planning Board with all powers granted to same under the Municipal Land Use Law. Mayor Corcoran and Alderwoman DeVenizia did not participate in the consideration of this application.

3. The Property in question is rectangular-shaped. It is located on the southerly side of Harrison Street, south of Washington Street. The Property has frontage of 50 feet, and it has a depth of 125 feet. The parcel is improved with a small single-family residence with a driveway, garage and shed.

4. The Property is located in the Town's R-2A Residential Zone which generally permits one family dwellings and certain residential accessory structures on lots of 6,250 square feet, which is the area of the subject lot and consistent with adjoining lots.

5. The existing improvements encroach into the front yard, side yard, and rear yard, which encroachments, other than the front yard would be eliminated by the proposed improvements; however, the proposed front yard setback confirms to the established setback of the existing structures on the same block as permitted by Section 300-82 of the Town's zoning ordinance.

6. The Applicant proposes to demolish the existing house, garage and shed

and reconfigure the driveway. The Applicant proposes to use pervious pavers over a portion of the property, but has included the area of the pavers in the calculation of impervious coverage as if the pavers were impervious.

7. Applicant seeks variance relief to permit the construction of a new single-family house, a new driveway and a new garage. The variances include maximum coverage, maximum lot coverage and maximum residential floor area. The proposed building coverage is 1,907 s.f. where 1,250 s.f. is permitted. The proposed lot coverage is 3,852 s.f. where 2,500 s.f. is permitted exceedance. The proposed floor area is 2,870 s.f. where 2,100 s.f. is permitted.

8. In connection with this matter, the Board has reviewed the following:

a. Completed Application for Development, dated September 30, 2019.
b. Completed Application for Variance dated September 30, 2019.
c. Checklist for Determining Completeness of Application for Development, dated August 9, 2019.

d. Plans for Proposed Single Family Dwelling 105 Harrison Street Boonton, New Jersey, prepared by Anthony Garrett, AI of Bilow Garrett Group Architects and Planners, P.C., last revised on September 27, 2019 consisting of seven (7) sheets including:

- i. Title Sheet.
- ii. Site Plan.
- iii. Existing Site Plan.
- iv. Area Map and Site Details
- v. Floor Plans.
- vi. Garage Floor Plan.

- vii. Building Elevations.
 - viii. Garage Elevations.
 - e. Completed Zoning Application.
 - f. Completed Grading permit Application
 - g. Completed Residential/Commercial Coverage Worksheet.
 - h. Copy of the owner's deed.
 - i. Letter Report dated February 20, 2020 by Joseph R. Vuich, PE, PP, CME of Suburban Consulting Engineers, Inc., Town Engineer.
- 9. In the course of the presentation, the following additional exhibits were introduced:

A-1 Color aerial photo of the subject site and surrounding properties.

A-2 Figure showing the location of the subject site and six other sites in the surrounding area and describing each site by type of structure (e.g. residence), height, lot area, building coverage, maximum floor area and F.A.R. The square footages shown for the subject site on the figure were erroneous and the correct figures for the subject site were provided as part of the testimony on behalf of Applicant.

A-3 Smaller, colorized version of the Title Sheet.

A-4 Smaller, colorized version of the Site Plan.

A-5 Smaller version of the Area Map & Site Details.

A-6 Smaller, colorized version of the Existing Site Plan.

A-7 Smaller version of the Floor Plans.

A-8 Smaller version of the Garage Floor Plan.

A-9 Smaller version of the Building Elevations

A-10 Smaller version of the Garage Elevations.

A-11 Color photos of other buildings in the vicinity of the property

10. Applicant was represented by Steven C. Schepis, Esq. Mr. Schepis introduced Tamjammul Khokhar, a principal of Applicant. Mr. Khokhar was duly sworn and discussed the application.

11. Mr. Khokhar testified that the application was virtually identical to an application by Applicant to build a very similar house at 113 Harrison Street, two doors down from the subject property, which application was approved by the Board in 2016. Mr. Khokhar testified that the proposed house on the subject site is virtually the same as the house that was constructed at 113 Harrison Street. Mr. Khokhar testified that he intended to occupy the house as his personal residence if the application was approved. Mr. Khokhar stipulated that there would be no bedroom in the basement of the house. Mr. Khokhar testified that, if approved, Applicant would finish the portion of the front façade shown on the plans as stucco with Hardy Plank. Mr. Khokhar testified that in the demolition of the existing dwelling, the house's asbestos siding would be abated eliminating a hazardous substance from the subject property. Mr. Khokhar testified that there is a retaining wall on the subject property that is failing and which would be replaced if the application was granted.

12. Mr. Schepis introduced Anthony Garrett, AI, who has previously been accepted as a planning expert by the Board. Mr. Garrett was duly sworn and testified about the application. Mr. Garrett testified that, although the proposed house would encroach on the front yard setback, the house is in line with the other houses on the block and no variance is required pursuant to section 300-82 of the Boonton Town zoning

Ordinance. Mr. Garrett testified that the pervious pavers would be underlain by a detention bed that will improve stormwater management on the subject site. Mr. Garrett testified that the proposed development would reduce impervious coverage on the site. Mr. Garrett testified that the proposed development would eliminate two setback violations in the side yard and the front yard. Mr. Garrett testified that the proposed dwelling and garage are more appropriate in size in the current market than the existing 750 square footprint house and single car garage. Mr. Garrett testified that the proposed development would replace the existing garage which is located in the side yard and violates the setback with a new garage in the rear yard which complies with the setback requirement. Mr. Garrett walked the Board through a comparison of the subject site and the five (5) other neighboring properties set forth on Exhibit A-2 to illustrate that, although the proposed dwelling is larger than the existing dwelling, and exceeds the permitted maximum floor area, as compared to five other properties in the zone, the proposed dwelling is within a floor area ratio range from .40 to .52 for several large single family dwellings and one multi-family dwelling. Mr. Garrett testified that a variance under subsection c(2) of N.J.S.A. 40:55D-70 of the Municipal Land Use Law should be granted under for the exceedances of maximum building coverage, maximum lot coverage and maximum residential floor area because the proposed development is in keeping with other similar single family homes in the area. Mr. Garrett testified that the variances would advance the purposes of the Municipal Land Use Law, including promoting a desirable visual environment and the conservation of natural resources. Mr. Garrett also testified the benefits of the proposed development, including the removal of the old, undersized dwelling and the old, small garage; elimination of setback violation; replacement of a failing retaining wall; elimination of parking in the front yard; and improved drainage and

conservation of stormwater on the site, outweigh any detriments. In fact, Mr. Garrett testified that he did not see any such detriments presented by the proposed development of the subject site.

13. A variance under section c(2) of N.J.S.A. 40:55D-70 of the Municipal Land Use Law can be based on a showing that approval of the application would advance one or more purposes of the Municipal Land Use Law and the benefits of the application will substantially outweigh any detriment to the public good. As illustrated by Mr. Garrett's testimony, the benefits such as improved drainage, conservation of stormwater, elimination of setback violations, removal of an old, undersized dwelling and garage and excessive impervious coverage and front yard parking substantially outweigh the detriments, if any, of the proposed development.

14. The above aspects of the proposed development are factors which the Board is required to consider in passing upon applications under the statute and the Board finds that Applicant has met its burden of proof to warrant granting of the variance relief here sought.

AND WHEREAS the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Town of Boonton for the following reasons:

1. The proposed residential construction on the Property will continue to be consistent with the residential character of the neighborhood.

2. The additional steps taken by the Applicant to comply with the requirements of the zoning ordinance and eliminate existing violations, and to improve stormwater management on the subject site, will lessen the impact of the proposed development of

the subject Property on neighboring property owners.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Town of Boonton on the 13th day of May, 2020 that the application of **WAQAR ENTERPRISES LLC** is granted, subject however to the following conditions:

1. Applicant shall provide updated perc tests and stormwater calculations to the Town Engineer to address the comments in his February 20, 2020 letter report.

2. Applicant shall comply with all applicable building codes in the construction of the single-family dwelling and shall obtain all necessary permits including construction permits and certificate of occupancy.

3. The within approval is conditioned upon the Applicant making payment in full of all sums due or to grow due on account of review and processing fees within twenty (20) days of the date of being billed for same by the administrative officer. No Certificate of Occupancy shall be issued until such fees have been paid in full. In the event that Applicant fail or refuse to pay such fees, the Planning Board reserves the right to declare the within resolution of memorialization and any relief granted pursuant hereto to be null, void and of no further effect.

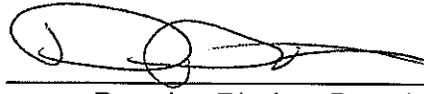
4. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.

5. The improvements shall be constructed in accordance with the plans submitted and the terms and provisions of the within resolution.

ADOPTED this 13th day of May, 2020, by the Planning Board at such meeting who

voted for the action taken on March 11, 2020.

Decided: March 11, 2020
Memorialized: May 13, 2020



Douglas Phelps, Board Chairman

On motion of: *Mr. Brewer*

Seconded by: *Mr. MacNeal*

The vote on the Resolution was as follows:

AYES: *Messrs. Brewer, Looker, MacNeal, Oplustky; Phelps*

NAYS:

ABSTAINING:

ABSENT: *Mr. Venturini*

I certify that the above resolution is a true and correct copy of a Resolution adopted by the Planning Board of the Town of Boonton upon a roll call vote at their regular meeting held on May 13, 2020.



Marianne Marcello, Board Secretary

**ATTACHMENT 2
RESOLUTION 2020-1
TAJ ENTERPRISES, INC.
10 PAGES**

IN THE MATTER
OF THE APPLICATION
OF
TAJ ENTERPRISES, INC.
BLOCK 81, LOT 15

BOONTON PLANNING BOARD

RESOLUTION
APPLICATION NO. 2020-1

WHEREAS, Taj Enterprises, Inc. hereinafter referred to as "Applicant," has applied to this Planning Board for use variance and bulk variance relief to permit the conversion of an existing structure from mixed commercial/residential use to a two-family dwelling on premises located at 218 Washington Street, also known as Block 81, Lot 15, which premises are in the B-2 Retail Business District Zone:

WHEREAS, by Ordinance adopted by the Mayor and Board of Aldermen of the Town of Boonton under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one board which, possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., said single board being known as the Planning Board of the Town of Boonton; and

WHEREAS, the application was the subject of public hearings held by this Planning Board on March 11, 2020 at which hearing Applicant and their architect, Anthony Garrett, testified in support of this Planning Board granting the requested relief.

NOW THEREFORE, BE IT REMEMBERED, that this Planning Board, at its official public meeting held on May 13, 2020, in accordance with the Open Public Meetings Act did make the following findings of fact, conclusions and determinations:

1. The Applicant has provided the required written notice to property owners, and

where required by law, those utilities that have requested written notice of applications. The applicant has also provided proof of timely publication of the notice in a newspaper designated by the Town of Boonton for publication of legal notices. Proof of payment of taxes was also presented. The Board therefore has jurisdiction to determine this matter.

2. This Board serves as a combined Planning Board and Board of Adjustment pursuant to N.J.S.A. 40:55D-25c. For purposes of this application, this Board sat as a Board of Adjustment with all powers granted to same under the Municipal Land Use Law. Mayor Corcoran and Alderwoman DeVenizia did not participate in the consideration of this application.

3. The property in question is rectangular in shape with frontage of 50 feet along Washington Street to the west and with a depth of 125 feet. The topography of the lot is generally flat.

4. The property is located in the Town's B-2 Retail Business zone which does not permit two-family dwellings.

5. Situated on the property is a two and one-half story frame dwelling which was originally constructed as a two-family house, but is currently vacant. The property complies with the setback, height and lot coverage requirements of the zone with the exception of its rear yard setback of 3.1 feet, whereas 5 feet is required. The property has a driveway and a garage in the westerly portion of the property.

6. Applicant seeks to convert the structure from its current office and residential use to a two-family dwelling with a two-bedroom, two-bath unit on the first floor and a two-bedroom one-bath unit on the second and third floors with the living area and family room on the third floor.

7. Applicant seeks to construct two small additions off the westerly side of the

house, one of which will be all new and the other will be enclosing an existing rear porch, to accommodate an enlarged bathroom and bedroom closets.

8. The proposed development requires the following relief:

a. Variance to permit expansion of a prior-non-conforming use to allow a two-family residence in the B-2 zone, which does not permit residential use.

b. Variance to accommodate building coverage of 2,045.5 square feet whereas the ordinance limits such coverage to 1,400 square feet. Existing building coverage is 1,993.5 square feet.

c. Variance to permit the pre-existing encroachment by the garage into the rear yard. The ordinance requires a rear yard setback of 5 feet but the existing rear yard is 3.1 feet.

9. The development would result in a first floor unit consisting of an existing front porch, living room/eat in kitchen/dining area, two bathrooms and two bedrooms, and a second and third floor unit consisting of a kitchen, bathroom and two bedrooms on the second floor and a living room and family room on the third floor.

10. In connection with this project the Board has reviewed the following:

a. Completed variance and development applications.

b. Completed Checklist for Determining Completeness of Application for Development

c. Tax Collector confirmation of payment of taxes

d. Applicant's IRS form W-9.

e. Copy of the owner's deed.

f. Proposed site plan, floor plans and elevations dated August 20, 2019, revised December 2, 2019 prepared by Bilow Garrett Group Architects and Planners, P.C.

consisting of:

- (i) Title Sheet
- (ii) Site Plan
- (iii) Area Map & Curb Details
- (iv) Floor Plans
- (v) Photo Elevations
- g. Memorandum dated December 27, 2019 from Jeffrey L. Janota, PP, AICP of H2M Architects + Engineers, Town Planner.
- h. Letter Report dated February 24, 2020 by Joseph R. Vuich, PE, PP, CME of Suburban Consulting Engineers, Inc., Town Engineer.

11. At the hearing, Applicant presented the following additional exhibits:

- a. A-1 Colorized Site Plan
- b. A-2 Colorized Area Map & Curb Details
- c. A-3 additional copy of Floor Plans
- d. A-4 Color versions of the Photo Elevations
- e. A-5 Color photographs of area buildings and an aerial photograph of the property and surrounding vicinity
- f. A-6 Letter from Richard Osborn confirming 1922 as the year when the Town's first zoning ordinance was adopted.
- g. A-7 Resale certificate of occupancy
- h. A-8 Zoning permit regarding car repair

12. Applicant was represented by Steven C. Schepis, Esq. The board heard testimony from Tamjammul Khokhar, President of Applicant. Mr. Khokhar was duly sworn

and discussed the application. Mr. Khokhar testified as to the use of the property during Applicant's ownership and his unsuccessful efforts to rent the property for office or any other commercial use. Mr. Khokhar testified that, at the time Applicant acquired the property, the Zoning Officer issued a resale certificate of occupancy confirming that the use of the property for both commercial and residential purposes was permitted. Also testified that the property was not efficiently suited for commercial use in its existing state, due to the first floor being above ground elevation requiring steps at both the front and the back of the building to reach the first floor. Mr. Khokhar acknowledged that the third floor of the property could not be used for bedroom purposes and agreed to a condition of approval to that effect. Mr. Khokhar testified that besides the small additions for bathroom and closets, the renovation of the property would be limited to painting the new improvements and the porch. Mr. Khokhar agreed to paint the entire façade and trim of the property. Mr. Khokhar acknowledged that the current residential tenant of the property has a business that involves buying, repairing and selling old cars. The repair work is done in the existing garage and cars awaiting repair are park on the parking are of the property. Mr. Khokhar acknowledged that conversion of the property to entirely residential use of the property would render the car repair business inappropriate and consented to a condition that the tenant would only be allowed to work on his personal vehicles and that any vehicles under repair would be parked in the garage.

13. The Board also heard expert planning testimony from Anthony Garrett, AI, who has previously been accepted as a planning expert by the Board. Mr. Garrett was duly sworn and testified about the application. Mr. Garrett testified that, although there is substantial building and lot coverage on the property, in fact more than would be permitted in residential zones, all of the coverage is existing condition, no additional coverage is proposed. Mr. Garrett testified that the property was originally constructed as a two-family residence. Based

on the resale certificate of occupancy, Mr. Garratt characterized the use variance as an expansion of a pre-existing non-conforming residential use. That premise was accepted by both the Board's planner and attorney. Mr. Garrett testified there are four other multi-family residences in the B-2 zone and discussed them. Mr. Garrett characterized the area around the property as an area in transition being located on the edge of the B-2 zone and near the Town's Transit Hub. Mr. Garrett testified that the conversion to two-family residence was a de-intensification of the use by eliminating commercial use. Mr. Garrett testified that utilization for commercial use required seven parking spaces, where there is room for only three spaces. Mr. Garrett testified that four parking spaces (two outdoor and two garage) was sufficient for the two-family residential use. Based on the case of Burbridge v. Mine Hill, in which the removal for junk from the front of a site to the rear of the site was deemed a benefit, Mr. Garrett testified that the restoration and painting of the façade and the elimination of the commercial car repair use and outdoor storage of old cars would be a benefit of the development and advance a purpose of the Municipal Land Use Law to provide a desirable visual environment. Mr. Garrett also testified that the cost of adapting the property for modern office or commercial use, including bringing the property into compliance with the Americans with Disabilities Act, would be impractical and prohibitively expensive. The two-family residential use would not require ADA compliance and is more feasible.

14. A use variance may be granted under section d(2) of N.J.S.A. 40:55D-70 of the Municipal Land Use Law based on a showing that the variance can be granted without substantial detriment to the public good and will not substantially impair the purposes of the zone plan and zoning ordinance.

15. Bulk area variances are justifiable under either the c(1) or c(2) provisions of N.J.S.A. 40:55D-70 of the Municipal Land Use Law. Under the c(2) subsection, variance

relief may be granted where it is determined that the proposed relief advances one or more of the purposes of zoning (which purposes are set forth in N.J.S.A. 40:55D-2) and where it is further determined that the benefits of granting the variance outweigh any detriments which might result from it.

16. In the case at hand, the Board is persuaded that Applicant has demonstrated the purpose of the Municipal Land Use Law would be advanced and the benefits of the proposed development would outweigh any detriments. Specifically, the permitted commercial use of the existing structure has proved infeasible over a number of years as evidenced by the Applicants inability to rent the first floor of the structure for either office or other commercial use. The cost of making the property barrier free is too high. The property was originally constructed as a two-family residence and continues to appear to be a two family home to the present. The property already has a residential use on the second floor. There is already a number of multi-family residential uses in the B-2 Zone in the vicinity of the property. The proposed development would provide sufficient off-street parking for the residential use, but not for a commercial use. Converting the commercial to a residential use will provide a unit of housing instead of an unused unit of commercial space.

17. The above aspects of the property are factors which the Board is required to consider in passing upon applications under the statute and the Board finds that Applicant has met its burden of proof to warrant granting of the variance relief here sought.

AND WHEREAS the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Town of Boonton for the following reasons:

1. The structure is particularly suited for use as a two-family residence, having

been originally constructed as a two-family building and having continued to have a residential use since that time. There are already a number of other multi-family uses in the zone.

2. The additions are modest and the new space is not unusual in either size or usage and is consistent with homes being built today.

3. Except as to pre-existing non-conforming conditions, such as the rear yard setback for the garage, the property will continue to comply with the bulk requirements of the zone, an indication to the Board that the additions will not constitute overdevelopment of the site.

4. The rear yard setback will not be intensified or exacerbated by the proposed development.

5. The Applicant agreed to conditions that will improve the appearance of the structure and will eliminate the commercial car repair business and result in the removal of numerous old cars stored on the property.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Town of Boonton on this 13th day of May, 2020 that the application of **TAJ ENTERPRISES INC.** is granted, subject however to the following conditions:

1. Applicant shall repaint the entire dwelling structure, both façade and trim, in a color other than salmon, which color shall be approved by the Town Planner. All mildew on the exterior of the garage will be removed.

2. Applicant shall ensure that the only vehicles parked at the property will be vehicles owned by tenants and their guests.

3. Applicant shall prohibit the use of the property for commercial car repairs. A tenant of the property may conduct car repairs on vehicles owned by that tenant, but the cars

under repair must be stored in the garage and the repair work must be conducted in the garage.

4. The third floor of the structure may not be used for a bedroom and no plumbing or closets may be installed on the third floor.

5. Applicant shall comply with all applicable building codes in the construction of the additions and the conversion of the first floor to residential use and Applicant shall obtain all necessary permits including construction permits and certificate of occupancy.

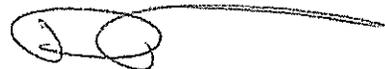
6. The within approval is conditioned upon the Applicant making payment in full of all sums due or to grow due on account of review and processing fees within twenty (20) days of the date of being billed for same by the administrative officer. No Certificate of Occupancy shall be issued until such fees have been paid in full. In the event that Applicant fail or refuse to pay such fees, the Planning Board reserves the right to declare the within resolution of memorialization and any relief granted pursuant hereto to be null, void and of no further effect.

7. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.

8. The addition shall be constructed in accordance with the plans submitted and the terms and provisions of the within resolution.

ADOPTED this 13th day of May, 2020, by the Zoning Board of adjustment at such meeting who voted for the action taken on March 11, 2020.

Decided: March 11, 2020
Memorialized: May 13, 2020



Douglas Phelps, Board Chairman

On motion of: *Mr. Brewer*

Seconded by: *Mr. MacNeal*

The vote on the Resolution was as follows:

AYES: *Mr. Brewer, Mr. Lookee, Mr. MacNeal, Mr. Alessio,*
NAYS: *Mr. Phelgis.*

ABSTAINING:

ABSENT: *Mr. Venturini*

I certify that the above resolution is a true and correct copy of a Resolution adopted by the Planning Board of the Town of Boonton upon a roll call vote at their regular meeting held on May 13, 2020.

Marianne Marcello
Marianne Marcello, Board Secretary

**ATTACHMENT 3
RESOLUTION 2020-2
ANTHONY DI MARCO
5 PAGES**

IN THE MATTER)
OF THE APPLICATION)
OF)
ANTHONY DiMARCO)
BLOCK 114, LOT 7)
_____)

BOONTON PLANNING BOARD

RESOLUTION

APPLICATION NO. 2020-2

WHEREAS, Anthony DiMarco, hereinafter referred to as "Applicant," has applied to this Planning Board for Minor Subdivision approval to permit three lots on premises located at 166 Reserve Street also known as Block 114, Lot 7 which premises are in the R-1A zone:

WHEREAS, by Ordinance adopted by the Mayor and Board of Aldermen of the Town of Boonton under statutory authority, the Planning Board and Zoning Board of Adjustment were combined into one board which, possesses and may exercise all powers granted to the Planning Board and Zoning Board of Adjustment pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., said single board being known as the Planning Board of the Town of Boonton; and

WHEREAS, the application was the subject of public hearings held by this Planning Board on March 11, 2020 at which hearings the Applicant's attorney, Bernd Hefele, Esq., Esq., expert testimony was presented by Marc C. Walker, P.E. who presented testimony and exhibits in favor of this Planning Board granting the requested relief.

NOW THEREFORE, BE IT REMEMBERED, that this Planning Board, at its official public meeting held on April 8, 2020, in accordance with the Open Public Meetings Act did make the following findings of fact, conclusions and determinations:

1. The application was for minor subdivision approval and therefore no notice to property owners or utilities or publication of notice in a newspaper designated by the Town of Boonton for publication of legal notices was required under the Town of Boonton land use

ordinance. Proof of payment of taxes was presented. The Board therefore has jurisdiction to determine this matter.

2. This Board serves as a combined Planning Board and Board of Adjustment pursuant to N.J.S.A. 40:55D-25c. For purposes of this application, this Board sat as a Planning Board with all powers granted to same under the Municipal Land Use Law.

3. The existing lot is roughly rectangular in shape and is substantially larger, 75,672 square feet where the R-1A zone requires 12,500 square feet. The property is bounded on the north by the rear yards of residential properties fronting on Fairview Avenue, on the east and west by the side yards of residential properties fronting on Reserve Avenue and on the south by Reserve Avenue.

4. The R-1A zone permits single family homes.

5. The existing lot contains an existing residence, swimming pool and two sheds.

6. Applicant proposes to subdivide Lot 7 into three lots. The three proposed lots would be entirely conforming with the use and bulk requirements of the R-1A zone and all three lots would include more than the required square footage.

7. The development would eliminate the swimming pool and a portion of the garage serving the existing dwelling at the subject property and otherwise preserve the existing dwelling.

8. In connection with this application, the Board has reviewed the following:

a. Application for Development, dated January 2, 2020;

b. Minor Subdivision Plan entitled "Minor Subdivision Plan, Block 114, Lot 7, Town of Boonton, Morris County, New Jersey" bearing latest revision date of September 30, 2019 prepared by Marc G. Walker, PE, and Kenneth D. Dykstra, P.E. of Dykstra Walker Design Group P.A. consisting of three sheets as follows:

- (1) Sheet 1: Cover Sheet;
- (2) Sheet 2: Development Plan
- (3) Sheet 3: Boundary and Topographic Survey Plan

c. Checklist for Determining Completeness of Application, Town of Boonton Planning Board, dated January 2, 2019;

d. Addendum A – Minor Subdivision Plat checklist;

e. Letter Report dated February 28, 2020 by Joseph Vuich, PE, PP, CME of Suburban Consulting Engineers.

9. Plaintiff was represented by Bernd Hefele, Esq. Mr. Hefele introduced Marc G. Walker of Dykstra Walker Design Group, P.A. Mr. Walker was sworn and qualified and discussed the minor subdivision. Although a portion of proposed lot 7.04 has steep slopes, Mr. Walker testified and demonstrated that a building lot can be configured so as to not require disturbance of the steep slope. A conforming conceptual proposed dwelling is shown on sheet 2, the Development Plan.

10. The Board Planner and Engineer confirmed that the Minor Subdivision Plan conformed to the requirements of the Zoning Ordinance.

AND WHEREAS the Board has determined that the relief requested by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Town of Boonton for the following reasons:

1. The proposed minor subdivision plan complies with the requirements of the Town of Boonton land use ordinances and the Municipal Land Use Law.

2. Proposed lot 7.04 can be developed without requiring a variance for disturbance of steep slopes.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Town of Boonton on this 13th day of May, 2020 that the application of Anthony DiMarco is granted, subject however to the following conditions:

1. Plot plans showing the proposed construction area for each new dwelling on the subdivided lots shall be submitted for the Town Engineer's approval before the issuance of construction permits.

2. Applicant shall comply with all applicable building codes in the construction of the dwellings on the lots and he shall obtain all necessary permits including construction permits and certificate of occupancy.

3. The within approval is conditioned upon the Applicant making payment in full of all sums due or to grow due on account of review and processing fees within twenty (20) days of the date of being billed for same by the administrative officer. No Certificate of Occupancy shall be issued until such fees have been paid in full. In the event that Applicant fails or refuses to pay such fees, the Planning Board reserves the right to declare the within resolution of memorialization and any relief granted pursuant hereto to be null, void and of no further effect.

4. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval.

ADOPTED this 13th day of May, 2020, by the Planning Board members at such meeting

who voted for the action taken on March 11, 2020.

Decided: March 11, 2020

Memorialized: May 11, 2020



Douglas Phelps, Board Chairman

On motion of: *Mr. Brewer*

Seconded by: *Mr. MacNeal*

The vote on the Resolution was as follows:

AYES: *Mr. Brewer, Mr. Hooker, Mr. MacNeal, Mr. Orlusky,*

NAYS: *Mr. Phelps, Mr. De Venezia, Mayor Corvino*

ABSTAINING:

ABSENT: *Mr. Venturini*

I certify that the above resolution is a true and correct copy of a Resolution adopted by the Planning Board of the Town of Boonton upon a roll call vote at their regular meeting held on *May 13* 2020.

Marianne Marcello
Marianne Marcello, Board Secretary