

**IN THE MATTER OF
GRANTING
THE APPLICATION OF
WILLIAM & KAREN HYATT
VARIANCES
BLOCK 97 LOT 29**

**RESOLUTION
MINOR SUBDIVISION
APPROVAL WITH**

WHEREAS, WILLILAM & KAREN HYATT, hereinafter the Applicant, has proposed the development of property located at 2 Clover Lane, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as Block 97, Lot 29 on the Tax Map of the Borough of Rumson; and

WHEREAS, the Applicant has applied to the Planning Board of the Borough of Rumson for subdivision approval to subdivide an existing 39,447 square foot (0.90 acre) lot into two new lots. New lot 29.01 will be an interior lot with an area of 24,945 square feet (0.5726 acres) with 199.7 feet of frontage on Clover Lane and requires Variances for rear yard setback of 29 feet where 40 feet is required (existing non-conformity) and two curb cuts for a circular driveway where one driveway curb cut is permitted (existing non-conforming). The foregoing is contrary to the provisions of Schedule 5-1 and Section 22-7.26.D of the Development Regulations of the Borough of Rumson. Proposed lot 29.01 will retain the existing dwelling, detached garage and associated site features. Proposed lot 29.02 will be a corner lot with an area of 14,502 square feet (0.3329 acres) with 110 feet of frontage on Avenue of Two Rivers and 137.03 feet of frontage on Clover Lane. Proposed lot 29.02 will be developed in the future with a single family residential home; and

WHEREAS, the subject property is located in the R-4 single family Residential Zone District which permits single family residential homes on interior lots of 10,000 square feet or larger and corner lots of 12,500 square feet or larger; and

WHEREAS, the Applicant appeared before the Planning Board of the Borough of Rumson on April 12, 2021 and May 3, 2021 respectively, due notice of said meetings having been given in accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

WHEREAS, the Applicant's witnesses were sworn and the Planning Board having heard the testimony of the Applicant's witnesses and having examined the Exhibits presented by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application, the Planning Board has made the following findings of fact:

The Planning Board has received and reviewed the following documents, Exhibits and reports:

1.1 Application of William & Karen Hyatt, undated marked as Exhibit A-1 in evidence.

1.2 Minor Subdivision Plan prepared by Richard E. Stockton & Associates, dated January 5, 2021, marked as Exhibit A-2 in evidence.

1.3 Completeness Review & Engineering Report of T&M Associates, dated March 19, 2021, marked as Exhibit A-3 in evidence.

1.4 Letter from Attorney Von Arx, dated April 22, 2021, marked as Exhibit A-4 in evidence.

1.5 Minor Subdivision Plan prepared by Richard E. Stockton & Associates, dated January 5, 2021 revised April 27, 2021, marked as Exhibit A-5 in evidence.

2. The premises in question are located at 2 Clover Lane, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as block 97 lot 29 on the tax map of the Borough of Rumson.

3. The Planning Board conducted a Completeness Review prior to commencing the hearing of the application and, based upon the board engineer's comments and recommendations, has determined that completeness waivers are appropriate for the items set forth in the engineers report dated March 19, 2021 and marked as Exhibit A-3 in evidence as those submission requirements are not material to the boards review and decision with respect to the subject application.

4. The subject property is located in the R-4 Single Family Residential Zone District which permits single family dwellings on interior lots of 10,000 square feet or larger and on corner lots of 12,500 square feet or larger.

5. The premises in question has a lot area of 39,474 square feet (0.90 acres) and is an elongated rectangle in shape with lot frontage of approximately 110 feet along Avenue of Two Rivers and approximately 336.73 feet of frontage along Clover Lane. The property is presently developed with an existing single-family residence with a detached garage, circular driveway and associated patios and walkways. The improvements are located on the westerly portion of the site. The subject property is a substantially oversized parcel for the R-4 Zone District and is more than three times the required lot size for corner lots in the zone and nearly four times the required lot size for interior lots.

6. The Applicant was represented by Brooks Von Arx, Esq. who presented the testimony of Christine Nazzaro Cofone, a licensed Professional Planner in the State of New Jersey whose credentials were accepted by the Planning Board. Ms. Cofone testified that the existing dwelling, detached garage

and associated site features on the interior lot 29.01 will remain and the property will consist of 24,945 square foot lot area with 199.7 feet of frontage on Clover Lane. She further testified the proposed lot 29.02 will consist of 14,502 square feet with approximately 110 feet of frontage along Avenue of Two Rivers and approximately 137.03 feet of frontage along Clover Lane.

7. Ms. Cofone testified that no new construction or tree removal are proposed in connection with this application. She testified that the only Variances in connection with the application are existing conditions which are not being exacerbated as they relate to the existing 29.0 feet setback to the rear of the existing residence and the second access for the existing circular driveway. These conditions will remain without change. She opined that there is a hardship associated with those variances insofar as they are existing conditions for a lawfully existing structure which cannot be changed without substantial detrimental impacts to the Applicant. She further testified that Variance relief can be granted on the basis of a "planning" Variance under Section 40:55D-70.c(2) and opined that the grant of variance relief will promote the purposes of the Municipal Land Use Law including specifically that set forth in N.J.S.A. 40:55d-2.e. as it will promote the establishment of appropriate population densities and concentrations. She noted that the density contemplated by the Master Plan and the Zoning Ordinance would be one unit per 12,500 square feet for corner lots and one unit per 10,000 square feet for interior lots. Thus, the subject property could accommodate between three and four separate parcels. She opined that subdividing the single parcel into two lots is more compliant with the contemplated density for properties in this zone.

8. Ms. Cofone also testified that the grant of the requested Variances will not result in any substantial detriment to the public good. In her opinion the proposed lots fit with the character of the neighborhood and will be consistent with other lots in the area. Therefore, it was her opinion that there will be no substantial detriment to the public good.

9. Ms. Cofone further testified that the grant of the requested Variance relief will not result in any substantial detriment to the Zone Plan or Zoning Ordinance. She noted that the proposed lots comply with the R-4 Zone District standards and therefore are consistent with the Master Plan and zone scheme for the area.

10. Attorney Von Arx placed on the record the agreement of the Applicant that the proposed lots, with the exception of the two Variances granted by this Resolution, will comply with the applicable zoning requirements without Variances for any structures. He further agreed that there will be no curb cut along Avenue of Two Rivers and that access to proposed lot 29.02 will be from Clover Lane. The forgoing will be conditions of this approval and memorialized on the subdivision deeds so that future property owners will be aware of the restrictions.

11. Due to concerns raised by Board Members and interested citizens the application was adjourned from the April 12, 2021 meeting to the May 3, 2021 meeting. Prior to the continuation of the application the Applicant submitted a revised plan to address concerns raised. More particularly the Applicant agreed to put in an additional restriction on the property that lot 29.02 will maintain a minimum 18 foot setback from the northerly property line adjacent to Block 97, lot 28. That will also be included as a restriction in the subdivision deeds. The revised plans also included a proposed evergreen row of trees to be installed at the time of building permit application. The Applicant agreed that the species of trees will be "deer resistant" and will be reviewed and approved by the Borough Engineer and the Environmental Commission. The revised plan also included a proposed street tree between the curb cuts for the circular drive. Finally, the Applicant agreed to pay particular attention to any drainage impacts to ensure that the development of lot 29.02 will fully comply with all stormwater

management ordinances and regulations. All of the foregoing are also conditions of this approval.

12. The Planning Board finds that the testimony of Ms. Cofone was credible and persuasive and agrees, based upon her testimony, that the Applicant has satisfied the positive and negative criteria for the grant of the requested Variance relief and that the Variances can and should be granted at this time. The Planning Board further finds that the Applicant has submitted a plat and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for minor subdivision approval have been met. The Planning Board further finds that the detailed drawings, specifications and estimates of the application conform to the standards established by ordinance for approval and that subdivision can and should be granted at this time.

13. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper Notice of the Hearing of this Application and were provided with an opportunity to present evidence in support of or in opposition to the Application.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Rumson on this 7th day of June 2021, that the Application of **WILLIAM & KAREN HYATT** be and is hereby approved, which approval shall be subject to compliance with the following terms and conditions.

GENERAL CONDITIONS –

- 1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are

incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.

2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.

3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.

4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant with all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality's Affordable Housing Trust Fund.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required **prior to** the commencement of **any** development activities including, but not limited to,

N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

SPECIAL CONDITIONS –

1) The approvals granted herein are as follows:

a.) Minor subdivision approval in accordance with the minor subdivision plan prepared by Richard E. Stockton & Associates dated January 5, 2021 revised April 27, 2021 marked as Exhibit A-5 in evidence.

b.) Variances for proposed lot 29.01 as follows:

1. Rear yard setback of 29 feet where 40 feet is required.
2. Circular driveway with two curb cuts where only one curb cut is permitted.
3. Other than the variances granted herein, future development of lots 29.01 and 29.02 will fully conform to the requirements of the R-4 Zoning District with respect to yard setbacks.
4. New lot 29.02 will be accessed from Clover Lane and not from Avenue of Two Rivers and will have no curb cut on Avenue of Two Rivers.
5. The Applicant shall include a restriction in the subdivision deed that proposed lot 29.02 shall maintain a minimum side yard setback of 18 feet.
6. The subdivision deed shall include a restriction that an evergreen row will be placed along the northerly property line of lot 29.02 adjacent to lot 8 which will be of "deer resistant" plantings which shall be reviewed and approved by the Borough Engineer and Environmental Commission.
7. The Applicant shall provide a street tree between the curb cuts of the circular drive of proposed lot 29.01.
8. The Applicant shall devote particular attention to drainage impacts of any new development and particularly with respect to lot 29.02 and ensure that all requirements of the stormwater management ordinance and stormwater management regulations are fully complied with.
9. The Applicant shall comply with the technical requirements set forth in the report of the Planning Board Engineer dated March 19, 2021 and marked as Exhibit A-3 in evidence.

BE IT FURTHER RESOLVED that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

BE IT FURTHER RESOLVED that a written copy of this Resolution certified by the Secretary of the Planning Board to be a true copy be forwarded to the Applicant, the Code Enforcement Official of the Borough of Rumson and the Construction Code Official of the Borough of Rumson. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the Municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

BE IT FURTHER RESOLVED that a proper notice of this Decision be published once in the official newspaper of the Municipality or in a newspaper in general circulation within the Borough.

OFFERED BY:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAIN:

ABSENT:

**Chairperson, Planning Board
Borough of Rumson**

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Rumson at its meeting held on June 7, 2021.

**Secretary, Planning Board
Borough of Rumson**