

**TOWNSHIP OF UNION
PLANNING BOARD RESOLUTION**

Application for Minor Subdivision Approval

Applicant: *Joseph C. Foor*
610 Rt. 627
Bloomsbury, New Jersey 08804

Owner: *Joseph and Janet Conry*
29 Rt. 635
Hampton, New Jersey 08827

Property: *Block 5 Lot 16.03*
Township of Union, Hunterdon Cty.

WHEREAS, the applicant, Joseph C. Foor, is the contract purchaser of the property fronting on both VanSyckel's Road and Coachman Drive in the Township of Union, County of Hunterdon, State of New Jersey and known as Block 5, Lot 16.03 on the Tax Map of the Township of Union; and

WHEREAS, the owner of the property has consented to the subdivision application; and

WHEREAS, the applicant has filed the necessary application for preliminary major subdivision approval together with the appropriate filing fee with the Administrative Officer; and

WHEREAS, the applicant has submitted a plan entitled "preliminary plat for Block 5, Lot 16.03" prepared by Kenneth D. Reigle, L.S. dated May 18, 1999 and also a plan entitled "Preliminary Major Subdivision for Joey Foor" prepared by Jess Symonds, P.E. of Biggs Engineering Associates dated May 24, 1999; and

WHEREAS, during the hearing process, the applicant amended his application to convert same to an application for minor subdivision approval so as to create one new lot and remaining lands with a parcel to be merged into a neighboring tract as reflected on a plan entitled "Minor Subdivision for Joey Foor" prepared by Jess Symonds P.E. of Biggs Engineering Associates dated May 24, 1999 revised through September 20, 1999; and

WHEREAS, on behalf of the Township of Union and its Planning Board, the Board's various professional consultants have reviewed the various plans and testimony presented to the Planning Board, and submitted their written and verbal reports including the Planning Board Engineer, Robert C. Bogart, P.E. in written reports dated June 21, July 15, and September 16, 1999 and Professional

Planner, Carter VanDyke, P.P. in a written report dated September 22, 1999; and

WHEREAS, the Planning Board reviewed the initial application for preliminary major subdivision approval, and thereafter, the amended application for a minor subdivision approval, and the written reports of its Consultants and other agencies having jurisdiction over the application, and considered the testimony of the applicant, Joey Foor and applicant's representatives, Jess Symonds, P.E. as presented through their Attorney, Frederick Stem, Esq., at meetings conducted on July 22, and September 23, 1999, and based thereon, has made the following findings of fact:

1. The applicant submitted a proper application for preliminary major subdivision approval with the Administrative Officer, which application as to form (not contents) and the required documentation was deemed complete by the Administrative Officer.
2. The applicant secured a certified list of neighboring property owners within two hundred feet of the said property and submitted proof of service of notice of the said application on the adjoining property owners, which notice was served by certified mail, return receipt requested, and the applicant also supplied the certified receipts together with an Affidavit of Service attesting to the mailing of the notices to the said adjoining property owners.
3. A copy of the notice of development served on neighboring property owners was submitted to the Board together with an Affidavit of Proof of Publication of the said document in the official newspaper of the municipality at least ten days prior to the date of the initial public hearing. The following documents were marked into evidence:
 - "A-1" Hearing Notice documents
 - "A-2" Hunterdon County Health Department Approval dated 7/9/99
 - "A-3" Pattenburg Fire Company- Chief's letter
 - "A-4" "Minor Subdivision for Joey Foor" dated 5/24/99 revised through 9/20/99 prepared by Jess Symonds, P.E.
4. The applicant paid all appropriate application fees and testified that the taxes on the property were current.
5. The Board reviewed the application and related documents and the recommendation of the Board's Engineer and based thereon deemed as complete the application for preliminary major subdivision approval.
6. The applicant entered into a contract to purchase the subject property from his parents. The applicants initial plan was to create a three lot subdivision, utilizing one lot for a single family dwelling for his own personal use and the selling of the two remaining lots.

7. The subject property is located within the "AP" Agricultural Preservation District and is comprised of approximately 30 acres. The entire subdivision was proposed to produce lots containing 5.2 acres, 2.2 acres, and 21.7 acres, each to have built their own, single family dwelling. It was anticipated that the 5.2 acre lot would be classified as a "flag lot", but in all other aspects, the proposed lots complied with the zone requirements.
8. During the hearing process, testimony was presented that wetlands exist on the property and a 150 foot buffer would be required from the wetlands area. In addition, a common drive would be created for the proposed flag lot.
9. Subsequent to the initial hearing of July 23, 1999, the applicant submitted a revised subdivision plan to the Planning Board and amended his application requesting a minor subdivision approval whereby a portion of the tract would be sold and merged into the adjoining Blanchard property by way of a lot line adjustment, thus leaving two lots comprising the minor subdivision with both lots to be accessed from Coachman Drive by way of a common driveway.
10. The amended application was classified as a minor subdivision in as much as a portion of the subject property comprised of 3.2 acres will be merged into the neighboring Blanchard property (Block 5, Lot 15) by way of a lot line adjustment. The remaining application will create 2 lots, namely, Lot 16.15 comprised of 5.23 acres and lot 16.03 comprised of 21.74 acres. Both of the said lots would be accessed by way of a 16 foot wide common driveway with a 24 foot wide pull-off area for passage of vehicles. The pull-off area will address the emergency access concern of the Pattenburg Fire Department, and the common driveway will adhere to the zone plan as much as there will be less disturbance of the farm fields by utilizing a single access drive to the two new proposed dwellings.
11. The applicant testified as to his intent to construct a personal residence on the 21.74 acre tract and maintain the property in agricultural preservation use. Accordingly, a conservation easement was proposed and the applicant was readily agreeable to such an easement on the property and containing the exception that if there was any further subdivision of the said parcel, no residential development could take place on the subdivided, and such subdivided lot could be used only for agricultural purposes.
12. The applicant will submit the common driveway right-of-way easement and maintenance agreement as well as appropriate deeds for review by the board professionals prior to sign off of the subdivision deeds and/or plat.
13. The applicant requests a waiver of the planting of additional trees on the property for screening between lot lines so as to maintain the existing open fields as a-producing fields. The requested waiver was considered favorably by the Board, and the further condition that the existing tree rows on the property are to be included and protected

by the conservation easement.

14. A question was raised as to possible sink holes on the property and the Board determined that it would retain the services of Matt Mulhall as the Boards Consultant to inspect the property and report to the Board and applicant regarding his findings on the soil condition. The applicant agreed to undertake any recommendations for construction made in the Mulhall report.
15. The application was opened to the public for comment and questions were received and answered regarding the subdivision and drainage. In addition Mrs. Blanchard, the neighbor to which the 3.2 acre portion is to be merged confirmed her agreement with the proposed lot line adjustment.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Union, County of Hunterdon, State of New Jersey, on the 23rd day of September, 1999, that minor subdivision approval be granted as follows:

In its deliberations and conditional approval, the Planning Board relied upon and gave specific consideration to the representations made by the Applicant and the statements made in the application for preliminary minor subdivision approval, and the subdivision and site plans and related documents presented to the Board, and upon the agreement by the applicant that it would accept and incorporate as conditions of the preliminary minor subdivision approval, all commitments made in the applications, subdivision plan and associated documents, and testimony before the Board and which are hereby made a condition of this approval as follows:

1. All the information as shown on the minor subdivision plan and the accompanying application and documents as referenced in the Planning Board Engineer's report and the Board Planner's reports, and as may be required to be amended in accordance with this Resolution are adopted by reference as though the complete application and modified plans were set forth herein and the same are made a part hereof. Further, the commitments made by the applicant and its representatives in their recorded testimony and as set forth in the previous findings of fact shall be satisfied.
2. The applicant shall comply with all terms and conditions of the Planning Board Engineer's report of July 15, 1999 and September 16, 1999 and the Planner's report of September 22, 1999. All provisions as set forth in the Planning Board Engineer's reports, and the Planner's reports, and including but not limited to the posting of all review and inspection escrow for fees and the replenishment of same as required, and a pre-construction conference between the parties as directed by the Planning Board Engineer and the Planning Board Planner as necessary to review the tree protection and landscaping standards.

3. Approval by all other Agencies having jurisdiction on the within application, including but not limited to the Hunterdon County Planning Board, Department of Health and Soil Conservation District; and the State of New Jersey regarding all permits necessary, including but not limited to access, drainage, wetlands interpretation, etc. from the Department of Transportation, Department of Environmental Protection, etc.
4. All wetland areas are to be included in the conservation easement, which conservation easement document shall be prepared by the applicant's attorney and submitted to the Board professional for their review and approval prior to recording.
5. New lot 16.15 shall be restricted against any further subdivision for development purposes. Further, the non-building envelope of lot 16.03 shall be included in a perpetual conservation easement running with the land restricting such easement area from and against any construction on the land, with the exception that a portion of the restricted area may be subdivided there from for purposes of attachment and merger into a neighboring property; however such subdivided lands shall carry with them the perpetual conservation easement and restriction against any use of the said lands, for development purposes, with such subdivided lands only available for agricultural purposes.
6. The 2 new lots to be created, lot 16.15 and lot 16.03, upon which will be built single family residences, shall share their access through a single common driveway and as set forth in a common driveway easement and maintenance agreement, which shall be prepared by the applicant's attorney and submitted to the Board professionals for their review and approval prior to recording.
7. The applicant shall comply and incorporate any recommendation made by the Board's consultant, Matt Mulhall, in his report to be delivered to the Board and the applicant.
8. All improvements made on the premises shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances at the time of installation of the said improvement.
9. The Township of Union Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alteration of the plan hereby approved, unless prior written approval for any such

deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.

10. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the subdivision project in accordance with this approval, shall operate as an acknowledgment and agreement by the applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.
11. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the subdivision, or its improvements, which are subject to third party agency jurisdiction and which requires approvals by any third party agencies.
12. The Freshwater Wetlands Act is monitored and enforced by the State of New Jersey, Department of Environmental Protection and Energy. In granting this approval, the Planning Board makes no findings of fact as to the existence, or lack thereof, of wetlands on the subject property other than as may be reflected in specific findings stated herein, and the applicant is subject to and shall comply with, all Federal and State Regulations on wetlands.
13. All performance requirements as set forth in the findings of fact herein shall be satisfied by the applicant as a condition of this approval whether or not repeated at length in this conditions-section of the Resolution.
14. The terms and conditions of this approval shall be binding upon the applicant, the applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the application and property in its entirety, and the non-compliance with any term or condition by the applicant or his successors or assigns shall be deemed a material default subjecting the application to revocation of this approval. The request to change any single condition since all conditions are integrally related shall open the entire application to the Planning Board for re-consideration, possible re-approval and new terms and conditions in addition to those terms and conditions presently existing in this approval.
15. The applicant shall record a copy of the subdivision map containing the signatures of the Planning Board Chairman and the Secretary with the common driveway easement.

Motion was made by Mrs. Hirt and seconded by Mr. Carten to grant conditional minor subdivision as set forth herein.

<u>VOTE ON</u> <u>DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON</u> <u>RESOLUTION</u>
<u>yes</u>	Dean	<u>abstain</u>
<u>yes</u>	Hirt	<u>yes</u>
<u>no</u>	Haynes	<u>----</u>
<u>yes</u>	Hess	<u>yes</u>
<u>yes</u>	Carlbon	<u>yes</u>
<u>abstain</u>	Martin	<u>----</u>
<u>yes</u>	Panzarino	<u>yes</u>
<u>yes</u>	Ricker	<u>yes</u>
<hr/>		
<u>yes</u>	Carten (1 st . Alt)	<u>yes</u>
<u>yes</u>	Gallagher (2 nd Alt)	<u>yes</u>

The foregoing Resolution memorializing the actions taken by the Township of Union Planning Board was duly adopted by the Planning Board by a vote of a majority of the aforesaid members at its regular meeting held on November 4, 1999.

Grace Kocher
Grace Kocher, Board Secretary
Union Township Planning Board

Thomas Ricker
Thomas Ricker, Vice-Chairman
Union Township Planning Board