

Reso 2015-16

**RESOLUTION OF PLANNING BOARD
BOROUGH OF ROCKY HILL
SOMERSET COUNTY, NEW JERSEY**

**ANTOINE AND GAUD YVER
APPLICATION: PB-15-11₆**

Applicant: Antoine and Gaud Yver

Property: 38 Washington Street

Hearing Date: November 19, 2015

Relief Requested: Preliminary and final major subdivision approval.

Relief Granted: Preliminary major subdivision approval subject to the conditions imposed herein.

Supporting Plans and Documents Submitted:

Major Subdivision Concept Plan, dated October 20, 2015, prepared by Carroll Engineering; and Preliminary and Final Major Subdivision Plan, dated October 20, 2015, prepared by Carroll Engineering.

WHEREAS, Applicant applied to the Rocky Hill Planning Board (hereinafter, the "Board") for preliminary and final major subdivision approval in accordance with Section 80-36 (formerly codified as Section 503 of Article 5) of the Development Regulations Ordinance of the Borough of Rocky Hill ("DRO") and pursuant to N.J.S.A. 40:55D-48 and N.J.S.A. 40:55D-50; and

WHEREAS, all jurisdictional requirements have been met in connection with the Application; and

WHEREAS, a public hearing on the Application was heard by the Board on the Hearing Date, at which time the Applicant, represented by Attorney Jared Witt, was given the opportunity to present testimony and legal argument, and the Board's consultants and members of the public were given an opportunity to comment on the Application; and

WHEREAS, the Board reviewed the following reports submitted by its experts and each is hereby incorporated by reference into this Resolution:

Memoranda from the Board's Planner, Tamara L. Lee, PP, dated November 13, 2015; and Memoranda from the Board's Engineer, William C. Tanner, PE, dated November 17,

2015; and

WHEREAS, the following exhibits were submitted during the Hearing:

Exhibit A-1 Alternative Plan for Vehicle Circulation
Prepared by Carroll Engineering, dated November 19,
2015; and

WHEREAS, the Applicant presented testimony to the Board as more fully set forth on the record from the following individual:

1. Rudolf Holzmann, P.E., Applicant's Engineer; and
2. Antoine Yver, Applicant.

WHEREAS, Applicant's witnesses testified, in part, as follows:

1. Rudolf Holzmann testified describing his qualifications as a licensed professional engineer. Mr. Holzmann's credentials were accepted by the Board.
2. Mr. Holzmann testified describing the four proposed lots. Mr. Holzmann indicated that the existing gravel drive will remain and that the proposed utilities will be located underground. Mr. Holzmann agreed to comply with the Board Engineer's requirements in his report, dated November 17, 2015. Mr. Holzmann indicated that the Applicant will post security, as required by the DRO, for the performance and maintenance of the improvements and for inspection fees. Mr. Holzmann further testified with regard to the existing silo indicating that it will remain. During a discussion regarding the need for a fire hydrant on the Property with the Board and the Board's professionals, Mr. Holzmann indicated that he would inquire as to whether a fire hydrant was needed. With regard to vehicular circulation on the Property, Mr. Holzmann proposed installing grass pavers to facilitate emergency circulation.
3. Mr. Holzmann responded to the Board Engineer's report dated November 18, 2015, as follows:
 - a. With regard to the Board Engineer's comment numbered one, Mr. Holzmann conceded that the proposed cul de sac must be modified to accommodate the ingress and egress of the largest emergency vehicle.
 - b. With regard to comment two, Mr. Holzmann indicated that the largest of the proposed lots will own the driveway, provide for maintenance and snow plowing, and will grant access easements to the other lots for use of the driveway.

- c. With regard to the third comment, Mr. Holzmann testified with regard to the driveway's interface with the public way and other properties. Mr. Holzmann proposed installing a standard concrete driveway apron, with the driveway remaining a gravel driveway beyond the apron.
 - d. With regard to comment four, Mr. Holzmann indicated that the Applicant will comply.
 - e. With regard to comment five, Mr. Holzmann testified that an application has been submitted to the DRCC and that the Applicant will address any concerns and comply with all DRCC requirements. In addition, Mr. Holzmann agreed to provide new grading plans.
 - f. With regard to the sixth comment, Mr. Holzmann agreed to provide drainage calculations for proposed lots 3.02 and 3.03.
 - g. Mr. Holzmann agreed to comply with comments seven and eight of the Engineer's report.
4. The Applicant, Antoine Yver, testified with regard to the silo indicating that he has had the structure inspected and that it is sound. The silo, therefore, will remain on the Property.

WHEREAS, four members of the public appeared to ask questions with regard to the Applicant's Engineer's testimony in support of the Application; and

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Property, known locally as the "Hayden House", is an historically significant home located on a 7.6 acre lot on the North side of Washington Avenue in the R-IA Planned Residential A zoning district. The Applicant proposes to subdivide the Property to create three new additional lots. The Applicant proposes to cluster the three new lots at the rear of the Property on the Northeast corner.

2. The Property currently consists of two single family homes, a garage, a barn and a pool with a pool house. All of the existing buildings will remain with the exception of the existing barn. The Applicant proposes to remove the barn, salvage the material, as practicable, and construct a dwelling using the barn material on one of the newly subdivided lots. The remaining two newly subdivided lots will contain single family dwellings.

3. The Applicant has applied to the Board for preliminary and final major subdivision approval. However, the Applicant's submissions to and testimony before the Board was inadequate in

order for the Board to consider final major subdivision approval. During the hearing on the Application, the Board's professionals identified missing information and needed plan revisions. Thus, the Board considered Applicant's application for preliminary major subdivision approval only. The missing components identified on the Hearing Date have been incorporated into the conditions below.

4. The Applicant has not requested any other variances but waivers have been requested in conjunction with the Application. Any other relief required, including waivers, will be considered in conjunction with an application for final major subdivision approval, subject to the Applicant's compliance with all jurisdictional requirements.

5. The Applicant has proposed a driveway with a width of 15' where an 18' width is recommended for the ingress and egress of fire-fighting trucks and apparatus. During the hearing on the Application, the Applicant proposed to widen the driveway by three additional feet with the installation of grass pavers. The Applicant was not aware whether the grass pavers would be an acceptable solution and agreed to a meeting with the fire official to determine the Applicant's proposal's compliance with the fire official's requirements.

6. The proposed preliminary subdivision plan is consistent with the planning objectives of the zoning district to the extent that its configuration preserves the visual historic vista, as viewed from the public way, and preserves the existing structures.

7. The Applicant's request for preliminary major subdivision approval may be granted as it is consistent with the applicable requirements of the DRO, subject to compliance with the conditions imposed herein and subject further to final approval.

8. The Applicant has shown sufficient evidence to authorize the approval of its preliminary major subdivision plan in accordance with N.J.S.A. 40:55D-48, subject to conditions.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the evidence presented to it, and the foregoing findings of fact and conclusions of law, that the Board of Adjustment does hereby GRANT the Relief Granted as noted above, subject to the following:

1. Applicant is required to comply with the following condition(s):

- a. The Applicant is required to comply with Applicant's representations to and agreements with the Board during the hearing on this Application.

- b. The Applicant shall comply with the recommendations in the Board Planner's report, dated November 16, 2015, as referenced herein, with regard to the comments in Sections 3.0 and 4.0.
- c. The Applicant shall comply with all comments in the Board Engineer's report, dated November 17, 2015, as referenced herein, in accordance with the Board Engineer's recommendations and Applicant's representations before the Board.
- d. The Applicant shall post all required security, whether in the form of bonds or letters of credit, to ensure performance and maintenance of the improvements and to cover inspection fees, in accordance with the DRO and applicable law.
- e. The Applicant shall amend the Plans to include the lot coverage percentage information.
- f. The Applicant shall apply to the fire official for a written determination regarding which of the proposed driveway configurations complies with the fire official's requirements. The Applicant shall amend the Plans to comply with the fire official's determination and shall submit the fire official's written report to the Board.
- g. The Applicant shall determine whether placing a fire hydrant on the Property is required, to the satisfaction of the Board Engineer. If a fire hydrant is required, the Applicant shall enter into a Developer's Agreement with the Borough to ensure that the hydrant is maintained by the owner of the property upon which the hydrant is located. The deed that corresponds to the property upon which the hydrant is located shall contain a reference to said Developer's Agreement, to the satisfaction of the Board Attorney.
- h. The Applicant shall prepare deeds for each of the proposed lots in the subdivision, each of the deeds containing accurate references to all easements and requirements and containing accurate surveys, to the satisfaction of the Board Attorney and Board Engineer.
- i. The Applicant shall revise the Plans to show the proposed concrete driveway apron and its interface with the public way and sidewalk.
- j. The Applicant shall revise the Plans to provide for the remediation of runoff caused by the addition of new impervious coverage, to the satisfaction of the Board Engineer.
- k. The Applicant shall prepare and submit a grading plan,

to the satisfaction of the Board Engineer.

1. The Applicant shall provide drainage calculations for proposed lots 3.02 and 3.03 and for all new improvements to the Property, to the satisfaction of the Board Engineer. All drainage calculations shall be provided in Applicant's stormwater management report, to the satisfaction of the Board Engineer.
- m. The applicant shall revise the profile of the driveway to alter the direction of stormwater runoff, in compliance with stormwater management rules in the DRO and applicable law, to the satisfaction of the Board Engineer.
- n. The Applicant shall provide a tree mitigation and preservation plan, to the satisfaction of the Board Planner and the Board Engineer. As a component of said mitigation and preservation plan, the Applicant shall endeavor to preserve as many trees as possible at the property line, to the satisfaction of the Board Planner.
- o. The Applicant shall comply with the residential development fee requirement, in accordance with the DRO.
- p. The Applicant shall enter into a Developer's Agreement with the Borough, under which the Applicant shall be required to comply with, at a minimum, the conditions imposed herein.

2. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the Development Regulations Ordinance of the Borough of Rocky Hill, other Borough Ordinances, or the requirements of any Borough agency, board or authority, except as specifically stated in this Resolution.

3. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.

4. Applicant is required to comply with all recommendations of outside agencies having jurisdiction over the Application including but not limited to the Somerset County Planning Board, the Delaware and Raritan Canal Commission, and the Somerset-Union Soil Conservation District.

5. All fees assessed by the Borough of Rocky Hill for this Application and the hearing shall be paid prior to any construction.

BE IT FURTHER RESOLVED, that this Resolution, adopted on Dec. 17, 2015, memorializes the action of the Planning Board taken on the Hearing Date with the following vote: Yes:

No: None; Abstain: ; Not Eligible: ; Absent: .

RESOLUTION DATE:

ATTEST:

Christine Witt
Christine Witt,
Planning Board Secretary

Michael Goldman
Michael Goldman,
Chairman

VOTE ON RESOLUTION					
MEMBERS	YES	NO	NOT ELIGIBLE	ABSTAINED	ABSENT
CHAIRMAN MICHAEL GOLDMAN	✓				
MAYOR'S DESIGNEE, IRENE BATTAGLIA	✓				
ROBERT AYREY	✓				
MARK BLASCH	✓				
TIM CORLIS	✓				
LINDA GOLDMAN	✓				
CONNIE HALLMAN			✓		
BRIAN NOLAN	✓				
RAYMOND WHITLOCK	✓				
MICHAEL GIAMBRA, ALT 1			✓		
DAN KLUCHINSKI, ALT II	✓				