

**MINUTES OF THE  
SPRING LAKE PLANNING BOARD  
SEPTEMBER 11, 2013**

The regular meeting of the Spring Lake Planning Board was held on the above date at 7:00 PM in the Municipal Building, 423 Warren Avenue, Spring Lake, NJ.

Chairman Nicholas Sapnar called the meeting to order, led everyone in the Pledge of Allegiance to the Flag and announced that this meeting is being held in accordance with the Open Public Meetings Act and adequate notice has been published and posted per Chapter 231 P.L. 1975.

The Board Secretary called the roll for attendance. Present were Joseph Rizzo, Larry Iannaccone, Michael Burke, Ph. D., Cindy Napp, Walter Judge, Priscilla Reilly, Matthew Sagui, Melissa Smith Goldstein, and Chairman Nicholas Sapnar.

Motion by Rizzo, seconded by Reilly, that the minutes of the August 14, 2013 meeting be adopted. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Sagui, Goldstein, and Sapnar voted Aye. None No. Motion carried.

Board Attorney McGill read the resolutions to be adopted.

**Resolution #21-2013 Wells Fargo**

Motion by Sapnar, seconded by Judge, that Resolution #21-2013 Wells Fargo, that the variance be denied. On roll call Board Members Burke, Napp, Judge, and Sapnar voted Aye. None No. Motion carried.

**Resolution #22-2013 Russo**

Motion by Sapnar, seconded by Judge, that Resolution #22-2013 Russo, that the variance be denied. On roll call Board Members Rizzo, Iannaccone, Burke, Judge, Reilly, Goldstein, and Sapnar voted Aye. None No. Motion carried.

**Resolution #23-2013 MLZ Corporation, LLC**

Motion by Sapnar, seconded by Judge, that Resolution #23-2013 Russo, that the subdivision be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, and Sapnar voted Aye. None No. Motion carried.

**Ordinance No. 2013-011 Review**

The Board discussed the proposed Ordinance No. 2013-011, an Ordinance Amending and Supplementing Sections of Chapter 225, Land Development of the Borough Code.

Mr. McGill stated that this is a consistency review; it seems as though it is adjusting the floor elevation in reference to the ABFE's. He added that from a strictly legal view it appears to be consistent with the Master Plan. He is unsure why the ordinance needs to be changed. Mr. Sapnar stated that when the Board looked at the ordinance before about raising the height, this was discussed. He added that a resident should not be limited to three if they do not exceed the cellar or the height.

Mrs. Reilly explained there are properties around Lake Como that had major flooding; eighteen inches above the ABFE's during Superstorm Sandy. She added if the residents are going to raise their houses they should have additional leverage to raise their house enough so it does not flood. When the other ordinance was passed this issue was not brought to our attention.

Chairman Sapnar asked if residents raise their house more than the three feet above the ABFE's they will still meet all of the other requirements and this only applies to existing homes. Mrs. Priscilla answered yes.

Chairman Sapnar stated that it seems to be consistent with the Master Plan.

Motion by Sapnar, seconded by Reilly, that Mr. McGill write a letter to the Council, that the Planning Board agrees this ordinance is consistent and to proceed with the adoption of this ordinance. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, Sagui, and Sapnar voted Aye. None voted no. Motion carried.

Mr. Sagui recused himself.

#### **CAL#9-2013 SAGUI**

#### **17 WASHINGTON AVENUE**

#### **BLOCK 78, LOT 8**

Mr. McGill explained that this application is being presented on behalf of Mr. Sagui, who is a Board Member. He believes that members of the Board have a right to appear before the Board as an applicant. The Board is to view this application as it does any application, Mr. Sagui should not get any benefit that other residents do not get.

Thomas Hirsch, applicant's attorney explained that Mr. Sagui is proposing additions to his home. There is one issue in a legal nature, that being whether or not a D variance is needed for this particular application, whether or not this is an expansion of the preexisting non-conforming use at the site. A two apartment garage structure is located at the property, there have been improvements done to make this a one apartment garage structure. Even though the garage apartment is not a part of this renovation, the Zoning Officer believes that any addition to the property would be an expansion of the non-conforming use. It is a legal issue in the fact that it would be considered a D variance, the Mayor's Designee and Council person would not be able to participate in the application. Mr. Hirsch disagrees with the Zoning Officer; he is appealing that judgment and would like to move forward with the application as a bulk variance.

Mr. McGill stated that as a matter of procedure the decision should be handled before the hearing; if this is a D variance then there will be a different Board than if the Board proceeds under a C variance. The appeal of the Zoning Officer should be heard first, the Mayor's Designee and Council Person should be able to hear the appeal. Mr. McGill stated that is the Board's determination to make this interpretation and to hear the appeal. He added that the ordinance could be viewed as it traditionally has, which is the main house is the principle structure and the garage apartment being the accessory non-permitted use, as long as the application did not implicate the accessory structure then variances could be granted to the principle dwelling unit the C variance standard. He explained that the Zoning Officer and Al Hilla

viewed the application under the D variance standard since there is more than one dwelling unit located at the property, a variance would be required for any expansion because the whole lot is non-conforming. This type of appeal has not been before the Board, as a matter of assumption the Board has proceeded in the past under the implication rule.

Chairman Sapnar asked that if the principle building structure met all of the requirements and has a garage apartment the resident would have to appear before the Board no matter what. Mr. McGill answered yes.

Mr. McGill explained that he does not recall ever dealing with this issue head on other than assuming that the Board operates under the implication idea, in the final instance it is how the Board interprets the ordinance.

Mr. Rizzo stated that there must be some precedent, maybe the bulk or scale of the accessory structure. For example if there was a lot that had two clearly sizable dwelling units and either one could be considered a primary residence. Mr. McGill explained that just because there are two dwellings it does not mean that one is necessarily accessory structure; garage apartments have been assumed to be accessory to the principle.

Mr. Rizzo asked about the changes that were done to the garage apartment, the plans do not seem to be correct. He added that it is not clear to him by looking at these drawings what was actually done. Chairman Sapnar explained that the two apartments were combined into one so the structure was not changed. Mr. Judge added that the area of the structure has not been changed but the use of it has been reduced.

Chairman Sapnar stated that he does not understand how the permit could be issued to renovate the garage apartment, wouldn't that have needed a variance. Mr. McGill explained that it depends what permits were needed for the renovation.

Mr. Iannaccone asked if there are actually two separate buildings. Mr. Hirsch answered that no the survey is wrong.

Mr. Hilla explained that non-conforming uses are supposed to wither away. By allowing the further comfort at the property regardless of the structure, they will not wither away. He added that with the use variance it is tougher for them to obtain an addition to either the principal structure or the second principal structure. Garage apartments are not permitted so it is technically not an accessory use. He added that he goes by the definition in the ordinance today and it would not be considered accessory it would be considered a principle structure.

Chairman Sapnar stated that if the use is supposed to wither away how was the applicant able to obtain permits to renovating the apartment and why would the applicant need a use variance now. Mr. Hilla explained that he is not sure since he was not involved with that process but maybe because it made the structure less conforming.

Mr. McGill explained that at one time the garage apartment would have been a permitted accessory use, presumably. When it became prohibited, it would now be a preexisting non conforming accessory use;

it would not become a principle structure. He added that it has to be decided which rule the Board is going to go by, if the Board will follow the rule that any two dwellings on a property creates a necessity of a use variance, that would be a new rule and an interpretation. If the implication rule is followed then it has to be decided if this application would require a C or D variance because that determination has not been made under that rule.

Chairman Sapnar stated maybe the Board should make a decision on this particular application then deal with the particulars of the use variance issues at a later date. He added that every application will be different; he does not feel comfortable making a blanket statement.

Mr. McGill explained that the Board would have to determine whether or not it is a D variance, because the Zoning Officer is correct in his determination that any two dwellings create a use variance or because it is determine that it would be a D variance required because it implicates the accessory use that is the non permitted use. The Board has to be consistent going forward.

Mr. Judge asked if the Board has to set precedence tonight. Mr. McGill answered that is what needs to be determined.

Mr. Rizzo stated that every property is different and it would be difficult to make a blanket statement.

Chairman Sapnar stated that the Zoning Officer reviews the applications and determines that there may be a question of whether or not a property would need a use variance, they then come to the Board and the Board decides.

Mr. Iannaccone asked if there is any legal precedence that is similar to this that can be presented. Mr. Hirsch answered yes; in researching he has not found any cases that are the same with a garage apartment and a principal home. It is typical that one would see this type of situation in commercial properties, where there is a permitted use and a non-permitted use. For example, if the permitted use was being expanded in a commercial area there may be a need for more parking. And the parking is being shared by the permitted and non-permitted use, therefore the non-permitted use is implicated even though only the permitted use is being expanded, since it impacts the shared parking. In that case it would be considered an expansion of the D variance. When the non-permitted use is not implicated and they can be distinguished from each other, then that would not be considered and expansion. It seems as though the issue that the Zoning Officer has had is determining what the non-permitted aspect of the property is. Mr. Hirsch looked at it as a garage unit as the non-permitted portion and if someone would like to renovate their house that a D variance should not be considered since the non-permitted portion is not being implicated. The Zoning Officer is looking at the property as one specific thing as soon as anything is done to any part of the property, it would kick in an expansion issue.

Mr. McGill explained that the reason the Board has to give their opinion on this matter to the Zoning Officer, if the Board continues what it is currently doing there will be reviews sent to the Board for Use Variances based upon the fact that two dwellings are on the property without analysis as to whether its an accessory structure or two principle structure. The Board should adopt a rule or just continue to let the Zoning Officer review the residences as he has been. He would suggest that a ruling be made on the lines that if an application does not implicate a clear accessory structure, then no D variance would be necessary.

Mr. Hilla explained that there is a definition of non-conforming use in the ordinance and read it aloud. Mr. Rizzo explained that he agrees that it is an existing non-conforming use; the issue is whether or not it is an accessory use. Mr. Hilla answered that either way is not permitted. Mr. Hirsch stated that use is not permitted however the issue is whether or not this is intensification or an expansion.

Mr. Hilla stated that the definition deals with the use of the lot as a whole. He added that it would be difficult to leave the determination up to the Zoning Officer; maybe it should be determined by the Board which would make it clearer. It would make more people come to the Board or maybe deter them.

Mr. Judge explained that maybe the Zoning Officer is being cautious since he has to interpret the ordinance, he would do the same. Mr. Judge stated that it seems like the Board is almost changing the ordinance.

Chairman Sapnar explained that it is an accessory structure with a non conforming use, which is not a second principle dwelling and it is not implicated by the application.

Motion by Judge, seconded by Sapnar that it be determined that it is an accessory structure, not a separate principle dwelling, that it is not affected by the application, and no D variance is required. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, and Sapnar voted Aye. None voted no. Motion approved.

Mr. Hill asked that will the ordinance need to be changed. Mr. McGill answered that for clarity sake the Board should look at this at a later date.

Matthew Sagui, homeowner was sworn in. He explained that he purchased the home about a year and a half ago and grew up in Spring Lake and lived in Chicago for twenty years and moved back in 2003. He went on a walk through when the previous owner was selling, the house was spectacular. The house was built without heat, electric, and footings. It needs a new foundation and some upgrading; the house generally is going to be saved since it will be 120 years old next year. The garage apartment would be used as a place to stay there when all of his children visit. He believes that this would be consistent with the Master Plan since this historic house is being saved and restore.

Mr. Hirsch explained that Mr. Sagui will be removing an existing gazebo. Mr. Hirsch then asked Mr. Sagui what will be placed in the pool house. Mr. Sagui answered the pool equipment and a whole house generator; it is more of a shed than a pool house.

Mr. Judge stated that to replace the foundation as a part of this preservation Mr. Sagui must have a significant investment in this home. Mr. Sagui answered yes.

Mr. Iannaccone asked if there would be a shower in the pool house with hot water. Mr. Sagui answered no, the pool equipment is currently rotted out from being outdoors; he would like to clean up the area outside.

Mr. Rizzo asked if Mr. Sagui if the renovations are finished with the garage apartment besides the concrete pad. Mr. Sagui answered that he was over on his impervious coverage; he wanted to make the entire property conform so he removed some coverage.

There were no questions or comments from the audience.

Robert Ignarri, Professional Architect, was sworn in and accepted by the Board.

Mr. Hirssch, applicant's attorney had the exhibits marked into evidence.

Mr. Ignarri discussed the plans for the home both existing and proposed. He started with the basement floor plan. There will be an addition in the basement under the existing porch.

Mr. Rizzo asked if the basement will be heated. Mr. Ignarri answered yes.

Mr. Ignarri added that there will be a one story family room addition; there is a one story structure there already. Chairman Sapnar asked if the only portion of the basement addition that is being reconstructed and encroaching into the setback is along the right side of the house. Mr. Ignarri answered yes it encroaches a little over three feet; it is setback 21.86' from First Avenue.

Mr. Rizzo asked if the new addition underneath the porch will look similar to what it does now. Mr. Ignarri stated that it will be changed from wood to blue stone and the planting would have to be removed to be able to do the work, however some of the plantings will be replaced.

Mr. Ignarri explained the renovations to the first floor; the chimney will be removed to open up the east side of the house to the yard. The back entry area is being rebuilt to add an elevator and a dual, more secure entry way. He added that they are adding a pool house which will contain the pool equipment and generator and is oversized; it is not meant to be a living space. He then discussed the renovations and additions on the second floor and third floors.

Mr. Rizzo asked if the third floor meets the definition of the half story. Mr. Ignarri answered that he believes that it does, either way they will comply. He added that there is a new shed roof with a new dormer to gain head room in the house off of the main gambrel.

Chairman Sapnar asked if the newly created roof line going to be higher than thirty five feet. Mr. Ignarri answered yes. Chairman Sapnar then asked is that an additional variance being requested. Mr. Hirsch answered that he does not think it is a variance, portions of the house go up to 41.5' and this does not reach that height.

Mr. Hilla answered that he received the certification today that has the elevation of the highest peak of the house, working back from that peak he was able to determine that the scales would be about thirty six feet and the shed portion is 38.5'. Chairman Sapnar explained that anything above thirty five feet needs a variance. Mr. Hirsch explained that if it is needed they will request the variance.

Mr. Ignarri discussed the elevations of the home. There is also a variance needed for another shed dormer which is 38.4' in height. He then discussed the pool house which will have the same siding and detail as the house, ten feet in height.

Mr. Hirsch stated that the impervious coverage has been substantially decreased.

Mr. Burke asked if the house has drywells. Mr. Ignarri answered yes.

There were no questions or comments from the audience.

Jennifer Beahm, Professional Planner was sworn in and accepted by the Board. She explained that property is significantly oversized for the zone, approximately thirty six thousand square feet where fifteen thousand square feet is require. The various bulk variances requested are for the size of the accessory structure, the pool house and the expansion of the roof line. They are moving all of the pool equipment which is currently outside into the new pool house. The accessory structure is oversized however the lot is so large that the impact would be minimal. The pool house is going to be approximately 183 feet. This particular lot could be subdivided and two new structures could be put on each lot. There is a very small percentage of the community that maintains residential lots this size or larger. Even though the property contains the main dwelling, apartment garage structure, and a pool house the coverage is still only 21% where 25% is max amount. The increase in size of the pool house does not create a situation where the property is being over developed. She added the additional roof height would require a bulk variance; the overall height of the building is not being impacted. The extension of the roof area to create additional opportunities for windows for air, light, and open space would be beneficial; there has been a lot of care taken to restore this historic house architecturally.

Motion by Judge, seconded by Burke, that the Board go into caucus. On roll call all Board Members voted Aye. Motion carried.

Motion by Judge, seconded by Reilly that the Board come out of caucus. On roll call all Board Members voted Aye. None No. Motion carried.

Motion by Sapnar, seconded by Judge that the application be approved. On roll call Board Members Rizzo, Iannaccone, Burke, Napp, Judge, Reilly, Goldstein, and Sapnar voted Aye. None voted no. Motion approved.

Mr. Sagui returned.

Motion by Judge, seconded by Reilly, that the meeting be adjourned. On roll call all Board Members voted Aye. None No. Motion carried. Time: 9:20 P.M.

Respectfully submitted:

  
Dina M. Partusch-Zahorsky  
Board Secretary

**RESOLUTION NO. 21 - 2013**  
**(Cal 4 -2013)**

**RESOLUTION OF THE PLANNING BOARD OF THE**  
**BOROUGH OF SPRING LAKE, COUNTY OF**  
**MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, Wells Fargo Advisors, LLC (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(d), from the provisions of the Spring Lake Zoning Ordinances, for permission to expand its existing operations on Third Avenue in reference to property located at 1123 Third Avenue, Spring Lake, New Jersey, and also known as Block 86, Lots 11 on the Spring Lake Tax Map, and

**WHEREAS**, public hearings were held at the regularly scheduled meetings of April 10, 2013, and August 14, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in the RC Retail Commercial Zone.
2. The Property in question is located at the southeast corner of Third Avenue and Washington Avenue. The property contains a commercial structure with five storefronts located along Third Avenue and contains parking on the southerly side and in the rear. The applicant is the tenant occupying the northerly most unit on Third Avenue. The other units, moving in a southerly direction from the applicant include a vacant commercial space directly to the south, followed by a space occupied by an optician, then a cleaners and then a liquor store on the southerly end. The applicant is seeking to expand its business operation into the adjoining vacant commercial unit.
3. The applicant's business is one of providing financial services. Borough Ordinance 225-13 (A)(5) permits "Professional offices and business offices... except on a street level of properties, or any part thereof, located on Third Avenue". Under the

same ordinance, "financial services" are deemed to be "business offices" thus by operation of the ordinance such uses are not permitted on the street level. The applicants business being presently located on the street level, it constitutes a pre-existing nonconforming use. In requesting relief to expand its operations into the storefront directly to the south, the applicant is seeking to expand its nonconforming use and therefore needs use variance relief pursuant to N.J.S.A. 40:55D-70 (d)(2).

4. The Board heard the testimony from that the applicant that the applicant needed the extra space that the adjoining unit would provide to better accommodate its customers and to effectuate a plan to expand its staff. The Board heard the testimony from the applicant's planner who opined that the use was particularly suited to the location because the property was at the northerly terminus of the RC Zone and that it provides a good transition to the surrounding residential zone. The Board also heard that the use also fits some of the goals of the Borough's Master Plan because it would serve to bring people to the commercial zone on a consistent basis and that the use would tend to revitalize and keep vital the end of the commercial zone in which the use is located.

5. Notwithstanding the opinions of the applicant's professionals, which are not without merit, the Board finds that the application and the relief sought therein must be denied. The Board finds that the Borough amended the zoning regulations which prohibited professional and business offices on the street level of Third Avenue as recently as in 2005. The Board heard testimony from citizens that the prohibition of such uses has resulted in an increase of retail uses which is the preferred use on the street level along Third Avenue. The Board finds that to permit the expansion of the applicant's use would be directly and detrimentally in opposition to the goal of the amendment which is to promote retail business along Third Avenue. The Board acknowledges the testimony of the property manager who stated that the unit has been vacant for an extended period of time. The Board does not find that such testimony provides a compelling reason to deviate from the requirements. The Board finds that the surrounding retail uses would more likely benefit from a continuation of the present scheme to promote diverse retail uses on Third Avenue, even at its ends. On balance the Board finds that the detriments to the zone plan that would occur from the loss of

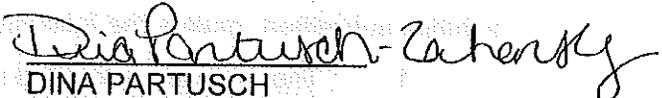
additional retail space outweigh the benefits to the plan so eloquently proffered by the applicant's professionals.

**WHEREAS**, The Board has determined that the relief requested by the applicants cannot be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and that the benefits of this application do not substantially outweigh the detriments associated therewith.

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 11th day of September, 2013, that the application be and is denied.

**CERTIFICATION**

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on September 11, 2013.

  
DINA PARTUSCH

RESOLUTION NO. 22 - 2013  
(Cal 7 -2013)

**RESOLUTION OF THE PLANNING BOARD OF THE  
BOROUGH OF SPRING LAKE, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, Edward Russo (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for variance relief pursuant to N.J.S.A. 40:55D-70(c), from the provisions of the Spring Lake Zoning Ordinances, for permission to construct a cabana with hot water and sanitary facilities at property located at 106 Madison Avenue, Spring Lake, New Jersey, and also known as Block 90, Lot 15 on the Spring Lake Tax Map, and

**WHEREAS**, public hearings were held at the regularly scheduled meeting of August 14, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The property is located in an R-1 Zone.
2. The property consists of a rectangularly-shaped lot that has 150 feet of frontage on Madison Avenue, 150 feet of depth and totals 22,500 square feet in total area. The property in question contains a 2 ½ - story dwelling and the applicant has obtained approvals from the Zoning Officer to demolish an existing garage, shed and patio and to construct a new garage, an in-ground pool and a cabana. The applicant is proposing to put hot-water plumbing, a shower and a toilet in the cabana. Pool cabanas are permitted accessory uses under Ordinance 225-12 (B) provided that "no pool cabana shall contain heating, hot water plumbing or sanitary facilities."
3. The Board finds that the variance relief must be denied. The Board finds that the property does not present the applicant with a hardship to development and that the property is currently used in a manner in substantial conformance with the existing

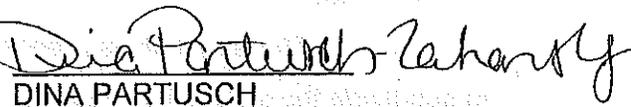
zone regulations. The Board finds that the applicant primarily desires to install the facilities in question as a convenience to his family and guests. The Board finds that the reasons provided are not of such sufficiency to allow the Board to deviate from the requirements of the zone. The Board affirmatively finds that the installation of the facilities proposed does not present a better zoning alternative and that should such a deviation be allowed, the granting of said variance would cause a substantial impairment of the zone plan which prohibits such facilities. The Board finds that the reasons provided by the applicant are common to a substantial amount of property owners in the zone and Borough and that to grant the variance requested would be to vitiate the prohibition against such facilities. Accordingly, the variance must be denied

**WHEREAS**, The Board has determined that the relief requested by the Applicants cannot be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinances of the Borough of Spring Lake and that the benefits of this application do not substantially outweigh the detriments associated therewith.

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 11th day of September, 2013, that the application be and is denied.

#### **CERTIFICATION**

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on September 11, 2013.

  
DINA PARTUSCH

## RESOLUTION NO. 23-2013

**RESOLUTION OF THE PLANNING BOARD OF THE  
BOROUGH OF SPRING LAKE, COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY.**

**WHEREAS**, MLZ Corporation LLC., (hereinafter referred to as the "applicant") has applied to the Planning Board of the Borough of Spring Lake for minor subdivision approval in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-37, regarding property located at 3 and 9 Atlantic Avenue, Spring Lake, New Jersey, and known as Block 31, Lots 5, 7.01 and 7.02 on the Spring Lake Tax Map, and

**WHEREAS**, a public hearing was held at the regularly scheduled meeting of August 14, 2013, in the Municipal Building, and testimony having been presented on behalf of the applicant and objectors to the application having been given an opportunity to be heard; and,

**WHEREAS**, such proof of service as may be required by New Jersey Statutes and Municipal Ordinances has been furnished; and,

**WHEREAS**, the Board, having considered the application, testimony, and exhibits submitted, makes the following findings:

1. The tract in question is owned by independent parties. The entire tract spans 200 feet of frontage on Atlantic Avenue and has a uniform depth of 150 feet. The tract under consideration includes Existing Lot 5 owned by Elaine Raia and Existing Lots 7.01 and 7.02 owned by Christine and Harold Cullison. The applicant is the contract purchaser of the Lots 7.01 and 7.02. Presently Lot 5 contains an existing 2-story dwelling and has 75 feet of frontage on Atlantic Avenue. Presently Lots 7.01 and 7.02 contain a 3 ½- story motel with a ground floor restaurant and miscellaneous support structures. Lots 7.01 and 7.02 have has 125 feet of frontage on Atlantic Avenue in total.

2. The applicant is proposing to raze all structures on Lots 7.01 and 7.02 and to subdivide the lot into two new lots to be known as Lot 7.03 and Lot 7.04 and also to create an additional 25 by 150 foot parcel along the easterly side of Existing Lot 7.01

which parcel is to be immediately transferred to the owners of Lot 5 to create a new lot to be known as Lot 5.01. New Lot 7.03 is proposed to have 50 feet of frontage on Atlantic Avenue and 150 feet of depth for a total of 7,500 total feet in area. New Lot 7.04 is proposed to have the same dimensions and is proposed to be located directly to the west of Lot 7.03. New Lot 5.01 is proposed to have 100 feet of frontage on Atlantic Avenue, 150 feet of depth and 15,000 square feet in total area. New Lot 5.01 is proposed to be located directly to the east of New Lot 7.03. The Applicant has provided plans prepared by R.C. Burdick, P.E., P.P., P.C., dated May 20, 2013, which more specifically describes the proposal.

3. The Board finds that the lots as proposed appear to be conforming with the Borough's ordinances. No variances have been requested by the applicant and none are granted herein by the Board.

4. The Board finds that the subdivision approval may be granted subject to the conditions found herein. The applicant shall be required to demolish and remove all structures and walkways prior to perfecting the subdivision because the subdivision is granted on the presumption that the land shall be devoid of structures. The proposal otherwise appears to be in conformity with the bulk requirements of the Borough's zoning ordinances.

5. The application as proposed is in keeping with sound planning and zoning and does not present any detriment to the public good nor does it impair the intent and purpose of the zoning plan.

**WHEREAS**, The Board has determined that the approval requested by the Applicant can be granted.

**NOW THEREFORE, BE IT RESOLVED**, by the Planning Board of the Borough of Spring Lake on this 11<sup>th</sup> day of September, 2013, that the application be and is hereby granted subject to the following conditions.

1. That all existing taxes, water and sewer assessments be paid current

as a condition of perfecting the subdivision.

2. That all legal fees or engineering fees, inspection fees, or performance bond set by the Borough Engineer be paid by the applicant prior to the issuance of a building permit.

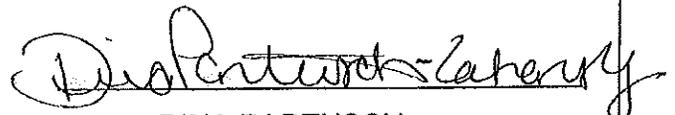
3. That a copy of this Resolution be given to any subsequent owner of this property.

4. That all structures on the property shall be demolished and removed as a condition of perfecting the subdivision.

5. That the subdivision granted herein shall be conditioned upon the immediate transfer and merger of the furthestmost easterly portion of existing lot 7.01 having dimensions of 25 feet x 150 feet to the owner of and with the parcel presently known as Lot 5 and nothing herein shall be construed to allow such easterly portion of existing lot 7.01 to exist as an independent lot. Should said transfer not occur the applicant shall return to the Board for further consideration of the subdivision plans.

#### CERTIFICATION

I, Dina Partusch, Secretary of the Planning Board of the Borough of Spring Lake, in the County of Monmouth, State of New Jersey, do hereby CERTIFY that the foregoing is a true copy of a resolution adopted by the Planning Board at its regular meeting held on September 11, 2013.



DINA PARTUSCH