

Resolution No.: 22-2023

**RESOLUTION OF THE BOROUGH OF CLAYTON LAND USE BOARD
GRANTING MINOR SUBDIVISION AND WAIVERS
FOR BLOCK 1303, LOT 5 (46 EAST CENTER STREET)
APPLICANT- BUILD MORE CONTRACTOR'S, LLC**

WHEREAS, Build More Contractors, LLC (the "Applicant"), owner of 46 East Center Street, also known as Block 1303, Lot 5 on the Borough of Clayton Tax Map (the "Property"), submitted an application for minor subdivision approval with waivers; and

WHEREAS, located in the "R-C" High Density Residential District, the Property is rectangular in shape, and bordered by residential uses on three sides, and the undeveloped portion of the First Presbyterian Church's lot on the other; and

WHEREAS, the Property is currently vacant, but used to contain a single-family dwelling; and

WHEREAS, the Applicant appeared before the Clayton Land Use Board (the "Board") on Monday, September 25, 2023 (the "Hearing Date"); and

WHEREAS, the Applicant seeks minor subdivision approval with waivers to divide the Property into two conforming lots; and

WHEREAS, Wayne L. Roorda, Jr., PE, PP, CME, the Board's engineer and planner, was present on the Hearing Date and duly sworn; and

WHEREAS, Michael J. Ward, Esq., presented the application on behalf of the Applicant; and

WHEREAS, the Applicant was present, and duly sworn to testify on behalf of the application; and

WHEREAS, the Applicant's design engineer, Michael E. Avila, PE, PP, was present, and duly sworn to testify on behalf of the application; and

WHEREAS, the Applicant met all jurisdictional requirements enabling the Board to hear and act on the application, and appeared before the Board on the Hearing Date, as specified above; and

WHEREAS, the following reports were prepared by the Board's professionals, and considered by the Board:

Memorandum of the Board's planner and engineer Wayne L. Roorda, Jr., PE, PP, CME dated September 13, 2023; and

WHEREAS, during the public hearing, the Applicant was given the opportunity to present testimony and legal argument, and the Board's professionals and members of the public were given an opportunity to comment on the application; and

WHEREAS, the following exhibits were marked into evidence during the hearing:

Exhibit A-1: Subdivision Plan with Topography (for illustration purposes only to show setback)

WHEREAS, Mr. Ward, the Applicant's attorney, presented a brief overview of the application, where he explained that the Applicant seeks minor subdivision approval to create two lots from the one existing lot, to eventually construct single-family dwellings on each of the two proposed lots.; and

WHEREAS, Mr. Avila provided most of the testimony in support of the application. Mr. Avila testified that he earned his bachelor's degree from Drexel University in engineering, and has been accepted as an expert witness in engineering and professional planning by numerous land use boards in Southern New Jersey. The Board accepted Mr. Avila as an expert witness in the field of engineering. Mr. Avila went on to testify that the existing lot will be split down the middle to create the two conforming lots; no bulk variances are required. The Applicant has already applied to the Soil District, and the Gloucester County Planning Board. If the Board grants this application for minor subdivision, Mr. Avila testified that the Applicant will submit the required grading plans for the proposed dwellings. Mr. Avila testified that the minor subdivision would be perfected by deed, and recorded with the Gloucester County Clerk's Office. He confirmed that the deed would be in a form and format which would first be submitted to the Board Solicitor and Board Engineer for review and approval prior to recording.

Mr. Avila also testified to Mr. Roorda's September 13, 2023 review letter. Mr. Avila testified that the Applicant will prepare and submit legal descriptions (Item 13), and revise and re-submit plans to address Items 19 and 25. For Items 22, 23, and 24, Mr. Avila's testified that none exist and none are proposed, therefore waivers are requested. The Applicant seeks waivers for Items 33, 34, and 36, as the project is limited in scope, and any other relevant information will be provided in the grading plan.; and

WHEREAS, Wayne L. Roorda, Jr., PE, PP, CME, the Board's engineer and planner, reviewed his report; and

WHEREAS, after Mr. Avila's testimony, Mr. Roorda testified that he had no objections to the six (6) requested completeness waivers, or the three (3) proposed conditions of approval; and

WHEREAS, Bill Peters, the owner of Build More Contractors, LLC, testified that he does not plan on fencing-in the lots, but will consider it. If the Board grants the minor subdivision application, Mr. Peters testified that he hopes to construct a 1,600-1,800 square feet "spec-type home" on each lot. He hopes to begin construction by the end of this year.; and

WHEREAS, the meeting was opened to the public, and the following individual was duly sworn and provided the following testimony:

Charles King, 214 North Main Street: Mr. King voiced concerns about flooding, as his property abuts the rear-portion of the Applicant's lot. The Applicant's engineer, Mr. Avila, clarified that no development would be in the rear of the property, and the other surrounding lots are most likely contributing the flooding as well.

WHEREAS, the Board has considered and incorporates herein the review letter submitted by Board engineer and planner, Wayne L. Roorda, Jr., P.E., P.P., C.M.E., and the Board has carefully considered all the documents submitted and the testimony of all the witnesses; and

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

1. The application was deemed complete subject to the submission waivers or conditions of approval for items 13, 19, 22, 23, 24, 25, 33, 34, and 36.
2. The Applicant seeks minor subdivision approval and the associated completeness waivers to create two conforming lots.
3. The Property is located in the "R-C" High Density Residential District, and is bordered by residential uses on three sides, and the undeveloped portion of the First Presbyterian Church's lot on the other. The Property is currently vacant, and used to contain a single-family dwelling.
4. A planning board's review of a proposed minor subdivision is limited. A planning board must determine whether the proposed subdivision conforms with the zoning requirements and subdivision ordinance.
5. Waivers may be granted when literal enforcement of an ordinance would be impracticable, or will impose an undue hardship because of peculiar conditions on the land in question.
6. The Board finds that the Applicant satisfied the relevant criteria for minor subdivision approval, as the proposal conforms to the minor subdivision ordinance, Section 88-77 of the Borough Code, and conforms to the "R-C" High Density Residential District, Section 88-12 of the Borough Code.
7. The Board finds that the requested submission waivers are appropriate as the items are either inapplicable to the request relief, will be addressed as conditions of approval, or will be addressed by the grading plan.

WHEREAS, after deliberation, a motion was made to grant approval of the minor subdivision and waivers, subject to certain conditions, as set forth herein, and was approved by a vote of 7 yeses to 0 noes.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Planning Board, that it hereby approves the application for minor subdivision, and the six (6) submission waivers, contingent upon the following conditions:


1. The Applicant shall submit legal descriptions for the two proposed lots. (Item 13 on Mr. Roorda's September 13, 2023 Review Letter).
2. The Applicant shall submit revised plans that indicate: (a) the pavement width dimensions; and (b) site triangles. (Items 19 and 25 on Mr. Roorda's September 13, 2023 Review Letter).
3. The Applicant shall comply in all respects with the review letters submitted by the Board's professionals, with the exception of waivers and/or variances granted.
4. The Applicant shall obtain the necessary approvals of all other governmental agencies having appropriate jurisdiction.
5. The Applicant shall post all performance bonds and inspection escrows and pay in full all review escrows prior to the approvals taking effect.


BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the Applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, October 23, 2023.

Attest:

**Borough of Clayton Combined Planning
Board and Zoning Board of Adjustment**


Debbie A. Schlosser, Secretary



By: Joe Abate, Chairman

ROLL CALL VOTE

THOSE IN FAVOR	<u>6</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>2</u>

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on October 23, 2023 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m., and memorializes the decision reached by said Board on the herein application at the Board's September 25, 2023 meeting and public hearing.


Debbie A. Schlosser, Secretary

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