

IN THE MATTER OF
APPLICATION NO. PB-719
OF AMBOY ROAD ASSOCIATES, LLC
BLOCK 39, LOT 11.01

RESOLUTION GRANTING
FINAL MAJOR SUBDIVISION
APPROVAL

WHEREAS, AMBOY ROAD ASSOCIATES, LLC, hereinafter the "Applicant", has proposed the development of property located at Monmouth County Route 537 and Lakeside Avenue in the Township of Colts Neck, County of Monmouth, and State of New Jersey, which property is further known and designated as Block 39, Lot 11.01 on the Tax Map of the Township of Colts Neck; and

WHEREAS, the Applicant previously applied to the Planning Board of the Township of Colts Neck for Preliminary Major Subdivision Approval with Variances to subdivide an existing 17.57 acre parcel into seven (7) new lots with one (1) off-site affordable unit, following the Growth Share Provisions of the A-1 Zone, with variances for failure to provide a 150 foot scenic corridor easement along Lakeside Avenue (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-70.1.B., and for failure to provide a 50 foot dedication along Lakeside Avenue where 75 feet are required (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-77.C.1. of the Colts Neck Township Development Regulations Ordinance; and

WHEREAS, the aforesaid application for Preliminary Major Subdivision Approval with Variances was granted by Resolution of the Colts Neck Township Planning Board adopted February 9, 2016; and

WHEREAS, the Applicant has now applied to the Planning Board of the Township of Colts Neck for Final Major Subdivision Approval; and

WHEREAS, the subject property is located in the A-1 Zone District and single family residential homes with associated accessory structures are a permitted use in the Zone; and

WHEREAS, the Applicant appeared before the Planning Board of the Township of Colts Neck on May 10, 2016, due notice of said meeting 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:

1) The Planning Board has received and reviewed the following documents, exhibits and reports:

1.1 Development Application of Amboy Road Associates, LLC, dated March 1, 2016, marked as Exhibit A-1 in evidence.

1.2 Boundary and Topographic Survey, prepared by Morgan Surveying, dated March 12, 2015, marked as Exhibit A-2 in evidence.

1.3 Final Plat for Block 39, Lot 11.01, prepared by Two River Engineering, dated February 25, 2016, marked as Exhibit A-3 in evidence.

1.4 Preliminary and Final Major Subdivision Plans, prepared by Two River Engineering, dated April 10, 2015, revised through March 18, 2016, marked as Exhibit A-4 in evidence.

1.5 Second Engineering Review of Planning Board Engineer Glenn Gerken, dated April 4, 2016, marked as Exhibit A-5 in evidence.

1.6 Preliminary Assessment Site Investigation Report, prepared by Brinkerhoff Environmental Services, dated March 16, 2016, marked as Exhibit A-6 in evidence.

1.7 Report of Township Planner Tim Anfuso, dated April 8, 2016, marked as Exhibit A-7 in evidence.

1.8 Report of Colts Neck Fire Prevention Bureau, dated April 1, 2016, marked as Exhibit A-8 in evidence.

1.9 Report of Colts Neck Health Officer, dated April 1, 2016, with prior Memorandum, dated June 8, 2015, marked as Exhibit A-9 in evidence.

1.10 Color Rendered Final Plat, prepared by Two River Engineering, marked as Exhibit A-10 in evidence.

2) The premises in question are located at the intersection of Monmouth County Route 537 and Lakeside Avenue in the Township of Colts Neck, County of Monmouth and State of New Jersey which property is further known and designated as Block 39, Lot 11.01 on the Tax Map of the Township of Colts Neck.

3) The subject property is located in the A-1 Agricultural Residential Zone District and the proposed use of the property for single family residential homes with associated accessory structures is a permitted use in the zone.

4) The subject property is a 17.57 acre parcel developed with an existing horse farm. The proposed subdivision is an "inclusionary development" pursuant to the Growth Share Provisions of the Ordinance. Thus a 40 percent density increase is permitted with an Affordable Housing set aside at 20 percent. This yields a total of eight (8) lots consisting of seven (7) market rate lots and one (1) Affordable Housing Lot. The Affordable Housing Lot will be provided off-site. The application for preliminary approval included variances for not providing a 150 foot scenic corridor easement along Lakeside Avenue (Lots 1 and 2) as required by Section 102-70.1.B. of the Colts Neck Township Development Regulations Ordinance and for providing a 50 foot dedication along Lakeside Avenue where 75 feet are required (Lots 1 and 2), contrary to the provisions of Section 102-77.C.1. of the Colts Neck Township Development Regulations Ordinance. Those variances were found to be justified and were granted in connection with the Preliminary Major Subdivision Approval.

5) The Applicant has now applied for Final Major Subdivision Approval with no additional variances requested. The Applicant presented the testimony of A. J. Garito, a Licensed Professional Engineer in the State of New Jersey, who testified that the final plat as presented, the detailed drawings and specifications for the final approval conform to the requirements of the Ordinance for final approval and the conditions set forth in the Resolution for Preliminary Approval adopted February 9, 2016. He further testified that the Brinkerhoff report demonstrates that the arsenic on the property, which was of previous concern to the Planning Board, is naturally occurring. Therefore, the New Jersey Department of Environmental Protection does not require any remediation for this condition. Mr. Garito testified that NJDEP final approval has not been received but is anticipated in the near future. Therefore, the Planning Board has determined that it is appropriate as a condition of approval to require the Applicant to provide an unrestricted use Remediation Action Order (RAO). This will be a condition of final approval before signing off on the final plat for filing. Mr. Garito also confirmed that a notation would be placed on the final plat and that the RAO shall be recorded with the County and the Municipality.

6) Mr. Garito also confirmed that all of the technical recommendations set forth in the report of the Planning Board's Engineer, dated April 4, 2016, marked as Exhibit A-5 in evidence, will be complied with as a condition of approval. He also confirmed that all structures presently existing on the property will be demolished prior to the final plat being released for filing to perfect the subdivision.

7) Mr. Garito also addressed the report of the Township Planner, Tim Anfuso, dated April 8, 2016, marked as Exhibit A-7 in evidence, and agreed to comply with the technical requirements set forth in that report. The Planning Board also reviewed the report with respect to the delivery of the off-site Affordable Housing unit, and has determined that it is appropriate that the unit be "delivered" (actually constructed and completed with appropriate recorded covenants and restrictions) prior to the issuance of the third certificate of occupancy for the subdivision. That will be a condition of this final approval.

8) The Planning Board finds that the Applicant has provided a plat with detailed drawings, specification and estimates which conform to the standards established by Ordinance for final approval and the conditions of preliminary approval such that the grant of final major subdivision approval is appropriate at this time.

9) The Planning Board further finds that proper notice of the hearing of this application was provided in accordance with the requirements of the Municipal Land Use Law.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Colts Neck on this 14th day of June, 2016 that the application of **AMBOY ROAD ASSOCIATES, LLC** for Final Major Subdivision Approval be and is hereby approved, which approval shall be and is hereby expressly conditioned upon compliance with the following terms and conditions:

1) All conditions of all prior Resolutions in connection with this application, including, but not limited to, the Resolution of the Colts Neck Township Planning Board adopted February 9, 2016, are incorporated herein and are continuing conditions of this approval.

2) The Applicant shall demolish all existing structures on the property prior to the signing and release of the final major subdivision plat by the Township for recording and perfection of the subdivision.

3) The Applicant shall secure final approval from the New Jersey Department of Environmental Protection for an unrestricted use Remedial Action Order (RAO) prior to the signing of the final major subdivision plat for filing and perfection of the subdivision.

4) The final plat shall include a note referencing the unrestricted use RAO which shall also be recorded with the County and the Municipality.

5) The Applicant shall be required to deliver a completed Affordable Housing unit (constructed with certificate of occupancy and recorded Affordable Housing covenants and restrictions) prior to the issuance of the third certificate of occupancy for the market rate units in the subdivision.

6) The Applicant shall comply with the technical recommendations set forth in the report of the Planning Board's

Engineer, dated April 4, 2016, marked as Exhibit A-5 in evidence.

7) The Applicant shall comply with the technical recommendations set forth in the report of the Township Planner, dated April 8, 2016, marked as Exhibit A-7 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, to the Construction Code Official of the Township of Colts Neck and to the Code Enforcement Official of the Township of Colts Neck. 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 Township.

OFFERED BY: Robinson

SECONDED BY: Leccese

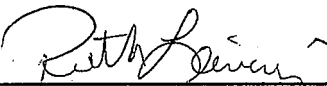
ROLL CALL:

YES: Kostka, Robinson, Corsi, Leccese, Singer-
Fitzpatrick and D'Eletto

NO: Leccese

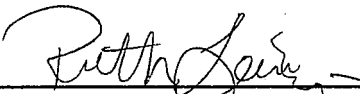
ABSTAIN: None

ABSENT: Orgo



Secretary, Planning Board
Township of Colts Neck

I certify that the above is a true and exact copy of the
Resolution adopted by the Planning Board of the Township of
Colts Neck at its meeting held on June 14, 2016.



Secretary, Planning Board
Township of Colts Neck

~~IN THE MATTER OF~~
APPLICATION NO. PB-719
OF AMBOY ROAD ASSOCIATES, LLC
BLOCK 39, LOT 11.01

~~RESOLUTION GRANTING~~
DEVIATION FROM CONDITIONS
OF FINAL MAJOR SUBDIVISION
APPROVAL

WHEREAS, AMBOY ROAD ASSOCIATES, LLC, hereinafter the "Applicant", has proposed the development of property located at Monmouth County Route 537 and Lakeside Avenue in the Township of Colts Neck, County of Monmouth, and State of New Jersey, which property is further known and designated as Block 39, Lot 11.01 on the Tax Map of the Township of Colts Neck; and

WHEREAS, the Applicant previously applied for and received from the Planning Board of the Township of Colts Neck Preliminary and Final Major Subdivision Approval with Variances to subdivide an existing 17.57 acre parcel into seven (7) new lots with one (1) off-site affordable unit, following the Growth Share Provisions of the A-1 Zone, with variances for failure to provide a 150 foot scenic corridor easement along Lakeside Avenue (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-70.1.B., and for failure to provide an open space dedication along Lakeside Avenue 75 feet in depth (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-77.C.1. of the Colts Neck Township Development Regulations Ordinance; and

WHEREAS, the aforesaid Preliminary Major and Final Major Subdivision Approvals with Variances were granted by Resolutions of the Colts Neck Township Planning Board adopted February 9, 2016 and June 14, 2016, respectively; and

~~WHEREAS, Special Condition 3 of the Resolution dated June~~
14, 2016 granting Final Major Subdivision Approval required that the Applicant secure final approval from the New Jersey

~~Department of Environmental Protection for an Unrestricted Use~~
Remedial Action Order (RAO) prior to the signing of Final Major
Subdivision Plat for filing and perfection of the subdivision;
and

WHEREAS, the New Jersey Department of Environmental
Protection has three (3) years from the filing of an RAO to
decide whether to audit the file which would result in
substantial delay in the Applicant perfecting the subdivision
approval and the Applicant having requested permission to
deviate from that condition of approval; and

WHEREAS, the subject property is located in the A-1 Zone
District and single family residential homes with associated
accessory structures are a permitted use in the Zone; and

WHEREAS, the Applicant appeared before the Planning Board
of the Township of Colts Neck on August 9, 2016, due notice of
said meeting 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:

1) ~~The Planning Board has received and reviewed the following documents, exhibits and reports:~~

1.1 Resolution granting Final Major Subdivision Approval with Variances, adopted June 14, 2016, marked as Exhibit A-1 in evidence.

1.2 Correspondence from Attorney Salvatore Alfieri, dated July 14, 2016 requesting a deviation from conditions of approval, marked as Exhibit A-2 in evidence.

1.3 Letter from Brinkerhoff Environmental Services, Inc. dated June 21, 2016, marked as Exhibit A-3 in evidence.

1.4 Report of Township Planner Tim Anfuso, dated August 5, 2016, marked as Exhibit A-4 in evidence.

1.5 Report of Colts Neck Fire Prevention Bureau, dated July 15, 2016, marked as Exhibit A-5 in evidence.

1.6 Report of Architectural Review Committee dated July 26, 2016, marked as Exhibit A-6 in evidence.

1.7 Email report of LSRP Supervising Scientist Rohan Tadas, dated August 3, 2016, marked as Exhibit A-7 in evidence.

2) The premises in question are located at the intersection of Monmouth County Route 537 and Lakeside Avenue in ~~the Township of Colts Neck, County of Monmouth and State of New~~

~~Jersey which property is further known and designated as Block 39, Lot 11.01 on the Tax Map of the Township of Colts Neck.~~

3) The subject property is located in the A-1 Agricultural Residential Zone District and the proposed use of the property for single family residential homes with associated accessory structures is a permitted use in the zone.

4) The Applicant was previously granted Preliminary and Final Major Subdivision Approval with Variances by Resolutions adopted February 9, 2016 and June 14, 2016, respectively, the contents of which are incorporated herein by reference.

5) The Resolution of June 14, 2016 contained Special Conditions including Special Condition Number 3 which provides "The Applicant shall secure final approval from the New Jersey Department of Environmental Protection for an Unrestricted Use Remedial Action Order (RAO) prior to the signing of the Final Major Subdivision Plat for filing and perfection of the subdivision."

6) The Applicant presented the testimony of Laura Brinkerhoff, an environmental scientist with thirty years of experience who has been a licensed site remediation professional (LSRP) since 2009 when the New Jersey Department of Environmental Protection (NJDEP) instituted that program. Ms. Brinkerhoff testified that she has submitted to NJDEP a request for audit and approval of an unrestricted use response action outcome (RAO) for the subject property approving her determination that ~~the elevated arsenic levels located on the subject property are~~

~~naturally occurring and do not require any remediation.~~ She testified that this request was made in March of 2016 and that NJDEP has a period of three years within which to decide whether to review and audit the report. She further advised that NJDEP has no required time frame within which to perform the audit except that if there is no audit performed within three years the RAO becomes final.

7) Ms. Brinkerhoff further testified that she has prepared one-hundred sixteen RAOs since the inception of the program. Of those one-hundred sixteen RAOs, only eight were audited by NJDEP and none of them have been invalidated. She further testified that since the inception of the program over eight thousand RAOs have been submitted to NJDEP and only nine of those have been overturned. She testified that she followed the NJDEP protocol strictly and conservatively and that there is little or no likelihood that it will be audited or that it will be overturned. She characterized the issues relating to the subject property as being extremely minor environmental issues.

8) The Board discussed its concern regarding persons who will purchase lots in this subdivision for their homes and that they would not have knowledge of the elevated arsenic levels in the soil. In response the Applicant offered to place within all of its Contracts a disclosure notice required to be initialed by any potential Buyer so that they will be aware, prior to entering into a contract for purchase, of the conditions of the property and that the RAO is subject to NJDEP review until March of 2019. The Planning Board further notes that pursuant to its ~~prior Resolutions the Applicant is required to record the RAO~~

~~with the Monmouth County Clerk to provide further notice of this issue.~~

9) As a result of the foregoing, the Planning Board finds that it is appropriate to permit the Applicant to deviate from Special Condition Number 3 of the June 14, 2016 Resolution and to permit the subdivision to be signed and filed with the County Clerk to perfect the subdivision. Consequently Special Condition Number 3 of the June 14, 2016 Resolution is hereby deleted subject to the conditions of this Resolution.

10) The Planning Board further finds that proper notice of the hearing of this application was provided in accordance with the requirements of New Jersey Statutes and the Municipal Land Use Law.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Colts Neck on this 13th day of September, 2016 that the application of **AMBOY ROAD ASSOCIATES, LLC** for deviation from Special Condition Number 3 of the Planning Board Resolution adopted June 14, 2016 be and is hereby approved, which approval shall be and is hereby expressly conditioned upon compliance with the following terms and conditions:

1. Except as modified herein, all conditions of all prior Resolutions in connection with this application shall be continuing conditions of this approval.

~~2. Special Condition Number 3 of the resolution of the~~
Planning Board of the Township of Colts Neck adopted June 14,
2016 is hereby deleted.

3. The Applicant shall place in all sale Contracts for
Lots in the subdivision a disclosure notice to be initialed by
the Contract purchaser as follows:

"DISCLOSURE: THE SOIL WITHIN THE SUBDIVISION IN WHICH THE
SUBJECT PROPERTY IS LOCATED HAS ELEVATED CONCENTRATIONS OF
NATURALLY-OCCURRING ARSENIC WHEN COMPARED WITH THE NJDEP
RESIDENTIAL DIRECT CONTACT STANDARDS. AN UNRESTRICTED
REMEDIAL ACTION OUTCOME (RAO) WAS ISSUED BY BRINKERHOFF
ENVIRONMENTAL SERVICES, INC. DATED March 16, 2016 (SEE COPY
OF RAO ATTACHED). THE NJDEP HAS UNTIL March 19, 2019 IN
WHICH TO AUDIT THE RAO. THE NJDEP AUDIT MAY RESULT IN THE
MODIFICATION OR REJECTION OF THE RAO.

INITIAL _____, Buyer

INITIAL _____, Buyer "

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, to the~~

Construction Code Official of the Township of Colts Neck and to the Code Enforcement Official of the Township of Colts Neck. 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 Township.

OFFERED BY: Crossan

SECONDED BY: Corsi

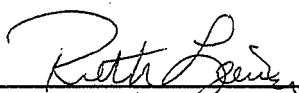
ROLL CALL:

YES: Robinson, Corsi, Crossan, Leccese,
Lutkewitte, Powell and D'Eletto

NO: None


ABSTAIN: None

ABSENT: Kostka, Orgo, Fitzgerald and
Singer-Fitzpatrick



Secretary, Planning Board
Township of Colts Neck

I certify that the above is a true and exact copy of the Resolution adopted by the Planning Board of the Township of Colts Neck at its meeting held on September 13, 2016.



Secretary, Planning Board
Township of Colts Neck

IN THE MATTER OF
APPLICATION NO. PB-719
OF AMBOY ROAD ASSOCIATES, LLC
BLOCK 39, LOT 11.01

RESOLUTION GRANTING
PRELIMINARY MAJOR
SUBDIVISION APPROVAL
WITH VARIANCES

WHEREAS, AMBOY ROAD ASSOCIATES, LLC, hereinafter the "Applicant", has proposed the development of property located at Monmouth County Route 537 and Lakeside Avenue in the Township of Colts Neck, County of Monmouth, and State of New Jersey, which property is further known and designated as Block 39, Lots 11.01 on the Tax Map of the Township of Colts Neck; and

WHEREAS, the Applicant has applied to the Planning Board of the Township of Colts Neck for Preliminary Major Subdivision Approval with Variances to subdivide an existing 17.57 acre parcel into seven (7) new lots with one off-site affordable unit, following the Growth Share Provisions of the A-1 Zone, with variances for failure to provide a 150 foot scenic corridor easement along Lakeside Avenue (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-70.1.B., and for failure to provide a 50 foot dedication along Lakeside Avenue where 75 feet are required (Lots 1 and 2), contrary to Chapter 102, Article VII, Section 102-77.C.1. of the Colts Neck Township Development Regulations; and

WHEREAS, the subject property is located in the A-1 Zone District and single family residential homes with associated accessory structures are a permitted use in the Zone; and

WHEREAS, the Applicant appeared before the Planning Board of the Township of Colts Neck on July 14, 2015, September 8, 2015, November 10, 2015 and January 12, 2016 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:

1) The Planning Board has received and reviewed the following documents, exhibits and reports:

1.1 Development Application of Amboy Road Associates, LLC, dated May 27, 2015, marked as Exhibit A-1 in evidence.

1.2 Aerial Photograph of subject property, marked as Exhibit A-2 in evidence.

1.3 Preliminary Major Subdivision Plans for Block 39, Lot 11.01, prepared by Two River Engineering, dated April 10, 2015, revised May 29, 2015, consisting of 11 sheets marked as Exhibit A-3 in evidence.

1.4 Concept Plan #1 for Lucas Major Subdivision for Block 39, Lot 11.01, prepared by Two River Engineering, dated June 2, 2015, revised June 4, 2015, consisting of 1 sheet marked as Exhibit A-4 in evidence.

1.5 Shade Tree Commission Report, dated June 4, 2015,
marked as Exhibit A-5 in evidence.

1.6 Architectural Review Committee Report, dated April 28,
2015, marked as Exhibit A-6 in evidence.

1.7 Report of Township Health Officer, dated April 15,
2015, marked as Exhibit A-7 in evidence.

1.8 Report of Colts Neck Fire Prevention Bureau, dated
April 17, 2015, marked as Exhibit A-8 in evidence.

1.9 Report of Planning Board Engineer Gerken, dated June
5, 2015, marked as Exhibit A-9 in evidence.

1.10 Report of Township Planner Tim Anfuso, dated June 4,
2015, marked as Exhibit A-10 in evidence.

1.11 Boundary & Topographic Survey, prepared by Morgan
Engineering & Surveying, dated March 12, 2015, marked as
Exhibit A-11 in evidence.

1.12 Stormwater Management Report, prepared by Two River
Engineering, dated March 3, 2015, marked as Exhibit A-12 in
evidence.

1.13 Packet of various deeds of easement and agreements
filed with the Monmouth County Clerk, marked as Exhibit A-
13 in evidence.

1.14 Supplemental Report of Township Planner Tim Anfuso, dated July 9, 2015, marked as Exhibit A-14 in evidence.

1.15 Concurring e-mail of Engineer Gerken, dated July 9, 2015, marked as Exhibit A-15 in evidence.

1.16 Report of Health Officer Frank, dated June 8, 2015, marked as Exhibit A-16 in evidence.

1.17 Environmental Commission Report, dated June 5, 2015, marked as Exhibit A-17 in evidence.

1.18 Mounted Tax Map, prepared by Two River Engineering, showing subject property and surrounding properties, marked as Exhibit A-18 in evidence.

1.19 Existing Conditions Exhibit, dated April 10, 2015, revised May 9, 2015, of Plan Sheet #2, prepared by Two River Engineering, marked as Exhibit A-19 in evidence.

1.20 Photo Board with twelve 8.5" x 11" photographs (six on each side) marked as Exhibit A-20 in evidence.

1.21 Conforming Concept Plan with six lots, revised July 5, 2015, marked as Exhibit A-21 in evidence.

1.22 Color rendered Sheet #4 of 11, prepared by Two River Engineering, dated April 10, 2015, revised May 29, 2015, marked as Exhibit A-22 in evidence.

1.23 Preliminary Major Subdivision Plan, prepared by Two River Engineering, dated April 10, 2015, revised August 20, 2015, marked as Exhibit A-23 in evidence.

1.24 Historic Pesticides Analysis Report, prepared by Two River Engineering, dated August 6, 2015, marked as Exhibit A-24 in evidence.

1.25 Report of T&M Associates, dated September 1, 2015, marked as Exhibit A-25 in evidence.

1.26 Report of Township Planner Tim Anfuso, dated September 3, 2015, marked as Exhibit A-26 in evidence.

1.27 Report of Township Health Officer Frank, dated August 28, 2015, marked as Exhibit A-27 in evidence.

1.28 Report of Environmental Commission, dated August 31, 2015, marked as Exhibit A-28 in evidence.

1.29 Report of Colts Neck Fire Prevention Bureau, dated September 4, 2015, marked as Exhibit A-29 in evidence.

1.30 Color Rendered Revised Landscape Plan, prepared by Two River Engineering; marked as Exhibit A-30 in evidence.

1.31 Site Plan with Boring Sample Locations, prepared by Two River Engineering, revised November 10, 2015, with handwritten revisions of LSRP Zingis, marked as Exhibit A-31 in evidence.

1.32 Air, Land & Sea Environmental Management Services Inc. Report, dated November 9, 2015, marked as Exhibit A-32 in evidence.

1.33 Brinkerhoff Environmental Assessment, dated December 31, 2015, marked as Exhibit A-33 in evidence.

1.34 Report of Colts Neck Environmental Commission, dated January 6, 2016, marked as Exhibit A-34 in evidence.

1.35 Report of T&M Associates, dated January 7, 2016, marked as Exhibit A-35 in evidence.

1.36 Three Historic Aerial Photographs of subject property, dating to the 1930s, marked as Exhibit A-36 in evidence.

1.37 Enlarged Aerial Photograph showing soil sample locations, marked as Exhibit A-37 in evidence.

1.38 Five mile radius soil survey map for Monmouth County, marked as Exhibit A-38 in evidence.

2) The premises in question are located at the intersection of Monmouth County Route 537 and Lakeside Avenue in the Township of Colts Neck, County of Monmouth and State of New Jersey which property is further known and designated as Block 39, Lot 11.01 on the Tax Map of the Township of Colts Neck.

3) The subject property is located in the A-1 Agricultural Residential Zone District and the proposed use of the property for single family residential homes with associated accessory structures is a permitted use in the zone.

4) The subject property is a 17.57 acre parcel developed with an existing horse farm. The proposed subdivision is an "inclusionary development" pursuant to the Growth Share Provisions of the Ordinance. Thus a 40 percent density increase is permitted with an Affordable Housing set aside at 20 percent. This yields a total of eight (8) lots consisting of seven (7) market rate lots and one (1) Affordable Housing lot which will be provided off-site. The application initially required a significant number of variances. During the course of the application the plans were revised reducing the variances to two. The first variance is for not providing a 150 foot scenic corridor easement along Lakeside Avenue (Lots 1 and 2) as required by Section 102-70.1.B. of the Colts Neck Township Development Regulations Ordinance. The second variance is for providing only a 50 foot dedication along Lakeside Avenue where 75 feet are required (Lots 1 and 2), contrary to the provisions of Section 102-77.C.1. of the Colts Neck Township Development Regulations.

5) The Applicant presented the testimony of A. J. Garito, a Licensed Professional Engineer in the State of New Jersey, and John Zingis, a Licensed Site Remediation Professional, with a Bachelor of Environmental Science Degree, who has worked in the environmental field since 1983, and has been licensed by NJDEP

as an LSRP since 2012. Mr. Garito testified as to the existing conditions of the property. The subject parcel is primarily an open space horse farm area. It is the last developable lot on Lakeside Avenue. He noted that no other properties on Lakeside Avenue have a scenic corridor easement and that to impose the scenic corridor upon the subject property would be inappropriate insofar as the corridor would not connect to a similar corridor on any other properties. Mr. Garito reviewed the reports of the Planning Board's Engineer and Planner and agreed on behalf of the Applicant that all of the technical recommendations set forth in the report of the Planning Board's Engineer would be addressed and complied with. He also agreed to comply with the technical recommendations set forth in the supplemental report of the Planning Board Engineer dated September 1, 2015. He also agreed to comply with the recommendations set forth in the Planning Board's Planner's report of June 4, 2015, including specifically paragraphs 7 through 25, including the location of trees and proposed buildings to improve the aesthetic appearance. He also agreed that the Applicant will comply with the technical recommendations set forth in Mr. Anfuso's report of September 3, 2015.

6) The Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested variance relief. The Planning Board notes that, due to the unique location and shape of the property, it is not possible to design a subdivision and maintain the easement as it would prevent Lots 1 and 2 along Lakeside Avenue from having useable rear yard space for accessory structures. The Planning Board finds that the foregoing circumstances create a hardship

upon the Applicant. Moreover, the Planning Board finds that it is a better planning result to have the 50 foot wide dedication to the Township of Colts Neck which prevents new Lots 1 and 2 from becoming corner or through lots and increases the available area for accessory structures. Moreover, the Planning Board notes that a 25 foot landscape easement has been added along the rear of Lots 3 through 7 to compensate for the reduced buffer along Lakeside Avenue. The Planning Board finds that this is a better planning result and the positive criteria have been demonstrated for those variances.

7) The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board finds that the 50 foot dedication along Lakeside Avenue will be left to naturally re-vegetate and will provide a pleasing rural, scenic atmosphere along Lakeside Avenue. Thus, there will be no substantial detriment to the public good. Nor will there be any impairment to the Zone Plan or Zoning Ordinance insofar as no other properties along Lakeside Avenue maintain a 150 foot scenic corridor.

8) The Planning Board notes that the Applicant provided a report demonstrating elevated levels of arsenic. Mr. Zingis submitted his report as representative of Air, Land & Sea Environmental Management Services Inc., dated November 9, 2015, and the Applicant subsequently provided additional supplemental information from Brinkerhoff Environmental services and the testimony of its principal, Laura Brinkerhoff, a certified professional Geologist for over 30 years and a licensed LSRP.

The Board's professionals have examined this information and advised that they agree with Mr. Zingis' and Ms. Brinkerhoff's conclusion that the arsenic on the property is naturally occurring rather than created by manmade pesticides. Notwithstanding that the NJDEP does not require a remediation plan for arsenic naturally occurring on site, the Planning Board remains concerned as to the safety of the potential residents of the subdivision.

9) Ms. Brinkerhoff testified that her company is now in the process of securing a Remedial Action Outcome (RAO) which she characterized as the current equivalent of the No Further Action (NFA) letters previously issued by the New Jersey Department of Environmental Protection for remediation of a site. She advised that the Applicant would go through the entire process with NJDEP, initiating an RAO and obtaining an NJDEP audit and approval for an "Unrestricted Use (RAO)". That document will be filed with the Municipality and the Applicant further agreed to record that document in the Monmouth County Clerk's Office with a Developer's Agreement so that any subsequent purchasers of the property would be placed on notice of the arsenic condition, which, pursuant to current NJDEP Regulations, does not require any remediation insofar as the arsenic is naturally occurring in the soils.

TBD

10) The Planning Board 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 preliminary approval have been met.

The Planning Board finds that the grant of preliminary approval for the proposed subdivision is appropriate at this time, subject to the terms and conditions set forth herein.

11) 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 testimony in support of or in opposition to the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Colts Neck on this 9th day of February, 2016 that the application of **AMBOY ROAD ASSOCIATES, LLC** be and is hereby approved, which approval shall be and is hereby expressly conditioned upon 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 and/or Maintenance Guarantees 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 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.

SPECIAL CONDITIONS -

1. The following relief is granted as part of this application:

a. Preliminary Major Subdivision Approval pursuant to and consistent with the Subdivision Plan prepared by Two River Engineer, dated April 10, 2015, revised through August 20, 2015.

b. Variance for not providing a 150 foot scenic corridor easement along Lakeside Avenue on Lots 1 and 2 (Section 102.70.1.B.).

c. Variance for providing a 50 foot dedication along Lakeside Avenue where 75 feet are required for Lots 1 and 2 (Section 102-77.C.1.).

2. The following conditions will govern the off-site affordable lot:

a. Since the growth share calculation generates an affordable housing obligation of 1.6 lots, Section 102-46.6.C.4. requires a fractional share contribution of \$91,336.20 ($\$152,227 \times 0.6 = \$91,336.20$). This must be paid prior to the recording of the Final Plat.

b. The affordable unit will have to be delivered prior to the issuance of the fourth new certificate of occupancy (Section 102-46.6.C.8.)

c. The affordable unit will have to comply with all requirements of Section 102-97.1, Lower Income Housing for New Inclusionary Developments, Housing, Affordable in Section 139 of the Colts Neck Township Code, COAH's third round rules at N.J.A.C. 5:97.1. et seq., and the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.

d. The affordable unit must be designated as a low income unit.

e. Deeds describing the terms and conditions of the 30 year affordability controls and a mortgage lien for the affordable unit need to be approved by the Planning Board Attorney, Engineer and Planner.

3. The Applicant shall comply with the technical recommendations set forth in the reports of the Planning Board's Engineer, dated June 5, 2015, and September 1, 2015, marked as Exhibits A-9 and A-25, respectively.

4. The Applicant shall comply with the technical requirements set forth in the reports of the Planning Board's Planner, dated June 4, 2015, July 9, 2015 and September 3, 2015, marked as Exhibits A-10, A-14 and A-26, respectively.

5. The Applicant shall initiate and submit an RAO to NJDEP and obtain NJDEP audit and approval of the RAO. The RAO must be an "Unrestricted Use RAO".

6. The Applicant shall place a notice on the plat with respect to the arsenic levels and the RAO.

7. The Applicant shall file the final "Unrestricted Use RAO" with the Township of Colts Neck.

8. The Applicant shall record the final "Unrestricted Use RAO" in the Monmouth County Clerk's Office.

9. The detention basin shall be encompassed by a drainage easement dedicated to the proposed Homeowners Association and the Township of Colts Neck.

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, to the Construction Code Official of the Township of Colts Neck and to the Code Enforcement Official of the Township of Colts Neck. 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 Township.

OFFERED BY: Robinson

SECONDED BY: Corsi


ROLL CALL:

YES: Kostka, Robinson, Orgo, Corsi, Crossan and
Leccese

NO: None

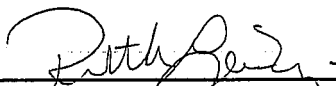
ABSTAIN: None

ABSENT: None



Secretary, Planning Board
Township of Colts Neck

I certify that the above is a true and exact copy of the Resolution adopted by the Planning Board of the Township of Colts Neck at its meeting held on February 9, 2016.



Secretary, Planning Board
Township of Colts Neck