

**BOROUGH OF HILLSDALE  
PLANNING BOARD  
RESOLUTION NUMBER 2021-12  
CASE NUMBER PZ-06-20**

**WHEREAS**, an application has been submitted by Donald Oriolo (the “Applicant”) as Owner of property known as 23 Ruckman Road and Christopher and Allison Franzese, as owners of 100 Piermont Road, Hillsdale, New Jersey and identified as Block 2004, Lots 2.01 and 1.01 (the “Property”); and

**WHEREAS**, the Applicant applied for minor subdivision approval to relocate a lot line to create two conforming lots, partially remove the garage on Lot 1 and construct a new dwelling on Lot 2.03, in addition to the dwelling under construction on Lot 2.01; and

**WHEREAS**, the Board considered the reports of Christopher P. Statile, PE, dated October 7, 2020; October 12, 2020; and February 8, 2021; and

**WHEREAS**, the Board determined that the application was complete and that a public hearing be conducted by the Board; and

**WHEREAS**, a virtual hearing was held on March 11, 2021; and

**WHEREAS**, the application was presented at the Board’s March 11, 2021 hearing, at which time Christopher Franzese (owner of proposed Lot 1.01) and Donald Oriolo (the Applicant) testified; and

**WHEREAS**, Christopher P. Statile, PE (Board Engineer) testified at the March 11, 2021 hearing; and

**WHEREAS**, at the March 11, 2021 hearing, the Planning Board was represented by John Dineen, Esq.; and

**WHEREAS**, Block 2004, Lot 1 is owned by Christopher and Allison Franzese of 101 Piermont Avenue; Block 2004, Lots 2.01 and 2.03 are owned by Donald Oriolo of 23 Ruckman Avenue; and

**WHEREAS**, along with the application, the Applicant submitted the following:

1. Subdivision plans entitled “Minor Subdivision Plan of Lot 1 and 2.01 in Block 2004 on the Tax Map of the Borough of Hillsdale, Bergen County, New Jersey”, prepared by Steven L. Koestner, PE, of Koestner Associates, 61 Hudson Street, Hackensack, NJ 07601, dated May 16, 2017 and revised to January 7, 2021, consisting of the following:
  - (a) Sheet 1 of 6: Existing Conditions Plan;
  - (b) Sheet 2 of 6: Subdivision Plat;
  - (c) Sheet 3 of 6: Area Map;
  - (d) Sheet 4 of 6: Grading & Drainage Plan;
  - (e) Sheet 5 of 6: Soil Erosion & Sediment Control Plan; and
  - (f) Sheet 6 of 6: Details.
2. A series of three photographs of the property; and

**WHEREAS**, the Applicant submitted proof of notification, by mail or personal service at least 10 days prior to the date set forth for public hearing on all persons owning properties within 200 feet from the extreme limits of the subject premises of the subject application, as set forth on a certified list of said owners furnished to the Applicant by the Tax Assessor of the Borough of Hillsdale and provided proof of service of such notice in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the Municipal Land Use Law (the “MLUL”), N.J.S.A. 40:55D-1 to -163; and

**WHEREAS**, the Applicant has submitted proof that a copy of said notifications have been published at least 10 days prior to the date set forth for public hearing in the official newspaper of the Borough of Hillsdale in accordance with the Land Use Ordinance of the Borough of Hillsdale, as amended and supplemented, and the MLUL; and

**WHEREAS**, the Board gave due consideration to all individuals desiring to be heard and after due deliberation, did find and determine that:

A. The Property

1. The Property is located at 23 Ruckman Road and 100 Piermont Road, designated as Block 2004, Lots 2.01 and 1.

2. The property is situated in the R-2 Residential Zone.

3. The subject properties are Lots 1 and 2.01 in Block 2004. Per the submitted revised plans, corner Lot 1 consists of 23,992 SF (0.55 acre) and is located at the northwest corner of the Piermont Avenue/Ruckman Avenue intersection in the R-2 Residential Zone District. The house fronts on Piermont Avenue and encroaches into the required Piermont Avenue front yard setback area.

4. Lot 2.01 is adjacent to Lot 1 and fronts solely on Ruckman Avenue. Lot 2.01 contains 30,500 SF (0.70) acre). Lot 2.01 is improved with a single-family dwelling that is currently under construction. Lot 2.01 was part of a prior minor subdivision that was approved in 2012. As part of that approval, the dwelling and all improvements on Lot 2.01 were required to be removed. The Applicant also appeared before the Board with a similar subdivision application in 2018, which was dismissed without prejudice as the improvements had not been demolished at that time.

B. The Application

5. The Applicant proposes to shift square footage from existing corner Lot 1 to create two new Lots 2.01 and 2.03. It appears that the garage on corner Lot 1 would be partially removed, while one new dwelling would be constructed on Lot 2.03, in addition to the dwelling under construction on Lot 2.01. Architectural drawings were not provided for the new dwellings. The bulk table on the Subdivision Plan indicates that the new dwellings will conform to all bulk requirements, including floor area ratio (“FAR”) and impervious coverage. The dwelling on Lot 2.01 is under construction.

6. The submitted plans had previously been deemed incomplete. After review of the revised subdivision plans, the Board Engineer, Christopher P. Statile, PE, offered the following comments:

- (a) The surveyor must sign his Certification on Sheet 2 of the plans.
- (b) The length of the new lot line between proposed Lots 1.01 and 2.03 needs to be verified (116.88 vs. 116.85).
- (c) The required and resulting setbacks must be shown on the Subdivision Plan.
- (d) Test Pit locations must be shown on the Subdivision Plan.
- (e) The soil data shown on the Details Sheet appears to be repeated rather than providing testing information for all locations.

7. According to the report of the Board Engineer, Christopher P. Statile, dated February 8, 2021, no variances are requested by the Applicant.

C. The Hearing

8. The owner of Block 2004, Lot 1, Christopher Franzese, was in attendance at the March 11, 2021 hearing. Mr. Franzese testified that the application is for subdivision approval and no variances are required by the Applicant.

9. Christopher P. Statile, PE addressed the Board and testified that his reports contain an illustration as to how the lots are being reconfigured. Basically, Lots 1 and 2.01 are being combined and then resubdivided into three lots: Lots 1.01, 2.01 and 2.03. Lots 2.01 and 2.03 are compliant as to zoning. Lot 1.01 has an existing one-family dwelling, which has existing non-compliant setbacks. These setbacks will not be exacerbated by the subject application. He testified that the Applicant has provided plans for the development of Lot 2.03. A dwelling is currently being constructed on Lot 2.01. One new building is being created in connection with the current application. The Applicant requires a waiver from the Bergen County Planning Board associated with the minor subdivision.

10. According to Mr. Statile, if the application is approved, the following issues must be addressed by the Applicant:

- (a) The surveyor must sign his Certification on Sheet 2 of the plans.
- (b) The length of the new lot line between proposed Lots 1.01 and 2.03 needs to be verified (116.88 vs. 116.85).
- (c) The required and resulting setbacks must be shown on the Subdivision Plan.
- (d) Test Pit locations must be shown on the Subdivision Plan.
- (e) The soil data shown on the Details Sheet appears to be repeated rather than providing testing information for all locations.

11. Mr. Statile advised the Board they it could (i) approve the application as submitted; (ii) approve the application with conditions; or (iii) reclassify the application as a major subdivision and deny same. According to Hilldale's Ordinance, there was no requirement to notice or publish for this hearing of a minor subdivision.

12. A Bergen County Soil Conservation permit is required to be submitted by the Applicant, and the Applicant will be required to contribute to the Borough's Affordable Housing Fund.

13. According to the Board Attorney, this is a minor subdivision application. He noted there are existing nonconformities with the property but, as a practical matter, same will not be increased as a result of the subject application. He does not believe this needs to be reclassified as a major subdivision requiring notice.

14. The Board discussed that there was a similar application before the Board several years ago for this property. Mr. Dineen advised the Board that each application rises and falls on its own merits and he does not consider this application res judicata.

15. The Board questioned Mr. Franzese as to the reason for the driveway easement. Mr. Franzese stated that the driveway easement pertains to Lots 2.01 and 2.03 and does not affect his property. Mr. Statile advised the Board that Lot 2.01 has a side-load garage requiring at least 24 feet from the garage door to the curb in order to bring the car around. The proposed easement is between two lots owned by the same party.

16. Board member Miano discussed the issue of the old detached garage that was to be removed as part of the prior application and questioned if it was in fact removed. Mr. Statile responded that the Applicant is aware that the garage is to be removed as a condition of the

approval granted for the dwelling under construction and that the new dwelling cannot be constructed until it is removed. The garage to be removed is located behind the proposed dwelling on Lot 2.03. She also questioned the driveway easement and if same is removed if the property is sold, and Mr. Statile advised that the driveway easement is permanent and will continue with any new ownership.

17. Board member Raymond questioned Item No. 4 under the General Comments section of Mr. Statile's report, which states that the detached garage on Lot 1 is to be partially removed to meet the zoning setback requirements. He asked if this is the same garage required to be removed and, if not, how is a garage partially removed. According to Mr. Statile, this is not the garage referred to earlier which is to be removed. This garage is on Lot 1 and the Applicant will reconfigure the garage so that it meets the zoning setback requirements.

18. In response to a question from Dr. Elliot Lichstein, Mr. Statile stated that the minimum lot size in the zone is 15,000 SF and all lot sizes conform.

19. Board member Kates asked the Applicant why the garage was still standing and has not yet been removed. Mr. Oriolo responded that the garage is comprised of old hand-hewn planks and beams that are being salvaged and reused, so it is being taken down slowly as opposed to being crushed. What remains of the garage should be removed within the next month.

20. Mr. Statile, the Board Engineer, advised the Board that the conditions of the approval granted for the construction currently taking placed should also be incorporated as conditions in this resolution, which conditions are as follows:

- (a) The surveyor must sign his Certification on Sheet 2 of the plans.

- (b) The length of the new lot line between proposed Lots 1.01 and 2.03 needs to be verified (116.88 vs. 116.85).
- (c) The required and resulting setbacks must be shown on the Subdivision Plan.
- (d) Test Pit locations must be shown on the Subdivision Plan.
- (e) The soil data shown on the Details Sheet appears to be repeated rather than providing testing information for all locations.

The Applicant agreed to the conditions being made part of the current approval.

21. Board member Stephen Riordan asked if the two 1,000 gallon seepage pits have been installed yet in the rear yard of current Lot 2.01. Mr. Oriolo advised they will be installed in the next few weeks and he will call Mr. Statile for an inspection of same. Mr. Riordan reminded Mr. Oriolo to be mindful of the 10 foot seepage setback when installing same.

22. Ms. Miano asked if the escrow with regard to the application is sufficient, as there have been issues in the past, and Mr. Statile advised that, at the current time, there are sufficient funds in the account. No certificates of occupancy will be issued if the account is not funded.

23. There were no additional questions from any Board member or Board professional with regard to the application.

24. No member of the public appeared at the hearing to object to the relief sought by the Applicant.

25. The Applicant agreed to comply with the recommendations of the Board Engineer as stated on the record and in his October 7, 2020, October 12, 2020 and February 8, 2021 reports, as well as the conditions of the Board. In addition, the conditions of the approval granted for the current construction on Lot 2.01 are to be incorporated as part of this approval.



D. Justification for Relief

26. The Board members felt that the Applicant has met his burden of proof to warrant minor subdivision approval. No bulk variance requirements are being created as part of the subdivision. The existing non-conforming setbacks on proposed Lot 1.01 are not being exacerbated as part of the subject application. The project will result in, without limitation, improved aesthetics, and the design will be within the existing streetscape.

27. The Board makes the following findings and conclusions with respect to this application:

- A. The Board finds that the application as presented will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough's Zone Plan and Land Use Ordinance.
- B. Further, the Board finds that using prudent zoning and planning principles, project will not negatively impact the existing neighborhood nor the community as a whole.
- C. The Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.
- D. The Board hereby determines that the Applicant has met his burden of proof to the satisfaction of the Planning Board for minor subdivision approval, as proposed by the Applicant.
- E. The Board finds the use is permitted in the R-2 Residential Zone.
- F. The Board also finds that the application as presented will not substantially impair the intent and purpose of the Borough's Zone Plan and Zoning Ordinance.
- G. The Board finds that using prudent zoning and planning principles, the request for the variances will not affect the existing neighborhood, nor the community as a whole. The

Planning Board hereby determines that the overall objectives of sound and prudent zoning and planning principles are advanced by the granting of the application.

H. All conditions imposed by the Board in prior resolutions, including removal of the garage, must be satisfied by the Applicant, as well as conditions of the Board and Board professionals, as stated on the record and in this resolution.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Hillsdale as follows:

1. The Applicant's application for minor subdivision and site plan approval to relocate a lot line to create two conforming lots, partially remove the garage on proposed Lot 1.01 and construct a new dwelling on proposed Lot 2.03, in addition to the dwelling under construction on Lot 2.01, is hereby granted.

2. The application is specifically conditioned upon any and all other approvals required by any governmental entity having jurisdiction over the development, including, but not limited to Bergen County Planning Board approval or waiver, Bergen County Soil Conservation District approval and NJDEP approval, to the extent applicable.

3. The Applicant shall comply with the reports of the Board Engineer and/or comments of the Board Engineer as stated on the record.

4. The Applicant shall comply with any and all Federal, State, County and local laws, ordinances, codes, rules and regulations with respect to all aspects of the project, property and proposed use, and with all such applicable laws and codes, and shall be responsible for all costs and fees associated therewith. Notwithstanding the approval granted by the Board, the Applicant shall obtain all other applicable approvals and comply with all applicable laws, codes, ordinances, regulations and the like as to the Property.

5. Before any permits are applied for, it is the responsibility of the owner to see if there are any open permits or violations and address these before a new permit can be issued.

6. When applying for the permits, a copy of the signed resolution and board-approved plans must accompany the permit application.

7. No certificate of occupancy will be issued unless all inspections have been performed, passed, and all prior approvals have been satisfied.

8. The Applicant shall maintain sufficient escrow funds as requested by the Borough of Hillsdale.

9. The Applicant shall obtain all appropriate and applicable approvals and permits as required from all governmental agencies having jurisdiction over the project or the subject matter of this application, shall comply with each and every requirement of every issued permit, and shall be responsible for all costs and fees associated with these approvals. Before any permits are applied for, the Applicant shall determine whether there are any open permits or violations for the Property and resolve any such issues to the satisfaction of the Construction Official. A signed Board resolution and Board-approved plans shall be submitted with all applications for permits.

10. If other agency approvals modify the plan, same will trigger a return to the Board.

11. The Applicant shall comply with the conditions of the Board and Board Engineer, as set forth herein and in the record.

12. The Applicant shall comply with all applicable laws and regulations, including the payment of the non-residential development fee, if applicable, pursuant to the Municipal Land Use Law.

13. The Applicant shall comply with the comments of the Board and Board Engineer as set forth in his report and on the record.

14. No certificates of occupancy or building permits will be issued until the garage on Lot 2.01, which has been partially dismantled, is completely removed.

**BE IT FURTHER RESOLVED** that the Chairman, Vice Chairman and Secretary of the Planning Board are hereby authorized to affix their signatures to this Resolution granting minor subdivision to relocate a lot line to create two conforming lots, partially remove the garage on Lot 1 and construct a new dwelling on Lot 2.03, in addition to the dwelling under construction on Lot 2.01, as described herein, and the Applicant is authorized to advertise the action taken by way of this Resolution in a local newspaper; and, further, the Secretary of the Board is authorized to send copies of this Resolution to the Construction Code Official and to the Applicant.

MOVED BY: Zoltan Horvath (motion to approve, with conditions)  
SECONDED BY: Mark DePisa

VOTE: FOR 11 AGAINST 0 ABSTAIN \_\_\_\_\_

MEMORIALIZATION VOTE:  
MOVED BY:  
SECONDED BY:

VOTE: FOR \_\_\_\_\_ AGAINST \_\_\_\_\_ ABSTAIN \_\_\_\_\_

APPROVED  
Attest:

\_\_\_\_\_  
Meredith Kates, Secretary

\_\_\_\_\_  
Dewey Burleson, Chair

\_\_\_\_\_  
Stephen Riordan, Vice-Chair

I certify that the foregoing is a true copy of the Resolution adopted on \_\_\_\_\_,  
2021.

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Meredith Kates, Secretary

Dated: \_\_\_\_\_, 2021