

Redevelopment Study Albourne Woods Study Area



**Borough of South River
Middlesex County, New Jersey**



**Preliminary
Analysis and
Investigation**

**Revised through:
November 18, 2025**

Bignell Planning Consultants, Inc.

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Preliminary Investigation and Redevelopment Study Report and Maps

Albourne Woods Study Area

Block: 143, Lot: 3.03 & 3.04
Borough of South River
Middlesex County

Revised through: November 18, 2025

Endorsed on _____ by the South River Planning Board.



Henry Bignell, PP
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For the Firm

and



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For the Firm

The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-1, et. Seq. and N.J.A.C. 13:41-1.1, et. Seq.

RESOLUTION 2025-269
RESOLUTION OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX,
STATE OF NEW JERSEY, AUTHORIZING THE LAND USE BOARD TO UNDERTAKE
AN INVESTIGATION OF ALBOURNE WOODS AREA, MORE SPECIFICALLY BLOCK
143 LOT 3.03 and 3.04, AS A POSSIBLE AREA IN NEED OF REDEVELOPMENT
PURSUANT TO N.J.S.A. 40A:12A-6

WHEREAS, N.J.S.A. 40A:12A-6 authorizes the governing body, by resolution, to authorize the Land Use Board to undertake an investigation to determine whether an area within the Borough of South River is in need of redevelopment in which the municipality may use powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain or condemnation according to criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, it is the desire of the governing body to authorize the Planning Board to undertake such an investigation to determine whether the **Albourne Woods Area**, more specifically, Block 143, Lots 3.03 and 3.04, including formerly Block 143 Lot 3.02 (also known as 3.01, 4, 5, 6 and 7) and Block 144.02 Lot 7.01 (also known as Lot 7 and a vacated unimproved portion of Virginia Street) of the Borough of South River, satisfies the criteria to be designated as an area in need of redevelopment pursuant to the aforementioned law; and

WHEREAS, before proceeding to a public hearing on the matter in accordance with the requirements of state statute, the Land Use Board shall prepare and submit to the governing body a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein as identified by this Resolution, together with a statement setting forth the basis for the investigation; and

WHEREAS, any interested or affected property owners shall be duly notified of the date of a hearing for the purpose of being heard in regard to the determination of the Land Use Board; and

WHEREAS, all hearing notice requirements shall be followed in accordance with the requirements of N.J.S.A. 40A:12A-6; and

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of South River, County of Middlesex, State of New Jersey, as follows:

1. That the governing body does hereby authorize the Land Use Board to undertake an investigation pursuant to N.J.S.A. 40A:12A-6 to determine if the Albourne Woods Area, more specifically, Block 143, Lots 3.03 and 3.04, including formerly Block 143 Lot 3.02 (also known as 3.01, 4, 5, 6 and 7) and Block 144.02 Lot 7.01 (also known as Lot 7 and a vacated unimproved portion of Virginia Street) the Borough of South River is

an area in need of redevelopment in which the municipality may use powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain or condemnation.

2. That the Land Use Board prepare and submit a map and report of its findings to the governing body in accordance with N.J.S.A. 40A:12A-6 and 40A:12A-5.

3. That the Land Use Board, upon determining if Albourne Woods Area, more specifically, Block 143, Lots 3.03 and 3.04, including formerly Block 143 Lot 3.02 (also known as 3.01, 4, 5, 6 and 7) and Block 144.02 Lot 7.01 (also known as Lot 7 and a vacated unimproved portion of Virginia Street) of the Borough of South River is an area in need of redevelopment, after notice to the governing body, provide adequate notice of a hearing to interested parties and affected property owners pursuant to the requirements of N.J.S.A. 40A:12A-6.

4. That a certified copy of this resolution be forwarded to the Land Use Board and the owners of record of properties located Albourne Woods Area, more specifically, Block 143, Lots 3.03 and 3.04, including formerly Block 143 Lot 3.02 (also known as 3.01, 4, 5, 6 and 7) and Block 144.02 Lot 7.01 (also known as Lot 7 and a vacated unimproved portion of Virginia Street).

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Balazs</i>	X		X			
<i>Councilman DeSantis</i>						X
<i>Councilman Dziemian</i>			X			
<i>Councilman Giannakopoulos</i>						X
<i>Councilman Gurchensky</i>			X			
<i>Council President Ciulla</i>		X	X			

I do hereby certify that the foregoing is a true and exact copy of authorization to approve the foregoing resolution adopted by the Mayor and Borough Council of South River on August 18, 2025



Alyssa Hager, RMC
Municipal Clerk
Borough of South River

Bignell Planning Consultants, Inc.

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Robert Bodak, Chairperson
South River Planning Board
48 Washington Street
South River, NJ 08882

Re: Redevelopment Study:
 Albourne Woods Study Area
 Block: 143, Lot: 3.03 & 3.04
 (±109) Albourne Street
 Preliminary Analysis and Investigation

Introduction

On August 18, 2025, the Borough Council of the Borough of South River, in accordance with N.J.S.A. 40A:12A-1 et seq., adopted Resolution 2025-269 authorizing the South River Planning Board to undertake an investigation to determine whether certain property in the municipality may be designated as a “Non-Condemnation Redevelopment Area” in accordance with criteria set forth in the New Jersey Local Redevelopment and Housing Law (LRHL) N.J.S.A. §40A: 12A-5, et. seq.

This report serves as the “statement setting forth the basis for the investigation” which is required by N.J.S.A. §40A: 12A-5 & 6.b (1) of the New Jersey Local Redevelopment and Housing Law, and contains an analysis relating to the individual properties designated by the resolution. The report provides a review of the necessary criteria needed to make a redevelopment determination and a recital of criteria met for each parcel in the Study Area. This report has been prepared to serve as the basis for both that investigation and for a public hearing to be conducted by the South River Planning Board in accordance with N.J.S.A. §40A: 12A-5 & 6. The Redevelopment Study Area Map contained within this report constitutes a “map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein,” which is also required under N.J.S.A. §40A: 12A-6.

Purpose

The purpose of this report is to determine whether the delineated portions of the Borough of South River shown on the Albourne Woods Study Area Parcel Map, (herein below) referred to herein as the “Study Area,” qualify as an “area in need of redevelopment” as defined in the New Jersey Local Redevelopment and Housing Law: N.J.S.A. §40A: 12A, et seq., as revised by the New Jersey Legislature through its 2024 amendments. This report is written pursuant to Section 6 of the LRHL, which provides the following:

1. No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in Section 5 of P.L 1992/c.79 (C.40A:12A-5). The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.
2. After completing its hearing on this matter, the Planning Board shall recommend that the delineated area, or any part thereof, be determined or not be determined by the municipal Governing Body to be a redevelopment area.

3. After receiving the recommendation of the Planning Board, the municipal Governing Body may adopt a resolution determining that the delineated area or any part thereof, is a redevelopment area.

Statutory Definition of Redevelopment

Pursuant to N.J.S.A. §40A:12A-3, "Redevelopment" means clearance, re-planning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

General Redevelopment Process

The general process of adopting a Redevelopment Area in the Borough of South River are stipulated in the Local Redevelopment and Housing Law, (N.J.S.A. §40:12A-1 et. seq.) as amended through 2024, and are as follows:

1. The South River Borough Council adopts a resolution delineating the Study Area and directing the Planning Board to investigate the area as a "Non-Condemnation Study Area."
2. The Planning Board (via its Planner) prepares a study report setting forth the basis for the investigation and a map showing the boundaries of the proposed area.
3. The report and map are made available for public inspection a minimum of 10 days prior to any public hearing.
4. The Planning Board conducts a public hearing and makes a recommendation to the Borough Council recommending to designate all or part of a Study Area as a Redevelopment Area.
5. The Borough Council adopts a resolution designating all or part of the Study Area as a Redevelopment Area.
6. The Township Clerk transmits a copy of the Redevelopment Area designation to the NJ Department of Community Affairs and transmits notice to property owners.
7. The South River Borough Council authorizes preparation of a Draft Redevelopment Plan which may be delegated to, or referred to, the Planning Board.
8. The Draft Redevelopment Plan is reviewed by the Planning Board for consistency with the Municipal Master Plan within 45 days.
9. The Borough Council adopts, as an ordinance, the Redevelopment Plan following its regular ordinance adoption procedures.

Statutory Criteria for a Redevelopment Area Determination

The following criteria are contained in Section 5 of the Local Housing and Redevelopment Law and are considered in evaluating the Study Area. (These criteria are revised through the May 30, 2019 revisions.)

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of a building or, buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such buildings or buildings; significant vacancies of such building or buildings for at least two consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.
- h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

Furthermore, Section 3 of the LRHL permits the inclusion of parcels that do not meet the criteria if they are necessary for the effective redevelopment of the area, stating:

“A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area in which they are a part.”

Scope of this Study

This investigation provides an individual assessment of each property listed in the designating resolution. Study Area map(s) have also been prepared in this report showing the extent of the Study Area. Ownership and land-use information on the parcels in the Study Area were compiled from MOD-IV property tax data, township tax records, aerial imagery, NJDEP records, NJGIN-GIS data, and historic records from this office if available. This office performed field research on each property. Observed land uses closely match the classifications of the MOD-IV property tax assessment database. Each lot or tract is described below, followed by a redevelopment criteria analysis.

Study Area Designation

South River Borough Council Resolution 2025-269 delineates a two (2) parcel Study Area containing the property as identified on the Official Tax Map of the Borough of South River and in the aforementioned resolution.

Study Area:			
Block Number:	Current Lot Number:	Location/Acreage:	Owner of Record:
Block 143	Lot: 3.03	± #107 Albourne Street (Shown as 68 Virginia Street) Frontage at approximately #107 Albourne Street on the east side of the Street between #105 and #111 Albourne Street [±1.152 acres]	Albourne Woods Apartments, LLC 51-53 Halsey St Ste 2B Newark, NJ 07102 (as of 5/30/2025)
Block 143	Lot: 3.04	Albourne Street - Rear (Shown as 64 Virginia Street) East of Lot 3.03; Frontage on Virginia Street west of the intersection of Virginia Street and Muravski Court [±1.253 acres]	Albourne Woods Apartments, LLC 51-53 Halsey St Ste 2B Newark, NJ 07102 (as of 5/30/2025)

Borough of South River
Albourne Woods Study Area Parcel Map
Prepared: September 30, 2025
(Red outline shows current lots: 3.03 & 3.04
FKA Block 143, Lots 3.01, 4, 5, 6 & 7
& Block 144.02, Lot 7
& Virginia Street right-of-way (vacated))



Property Description and Redevelopment Criteria Analysis:

The Albourne Woods Study Area is located on the east side of Albourne Street. The study area contains two (2) abutting parcels:

Block 143, Lot 3.03 is an L-shaped lot containing 1.152 acres of land on the east side of Albourne Street. The lot is a “flag-lot” with 60’ of frontage on the Albourne Street right-of-way located between two (2) existing residential lots on the east side of the street. Both abutting lots are developed with single-family residential homes and are shown as #105 and #111 Albourne Street. The 60’ wide portion of the lot connecting to Albourne Street is now an overgrown area which follows the old (vacated) Virginia Street right-of-way, which was a paper street at the time of street vacation around 2015. Virginia Street was never improved into a functioning right-of-way. The lot is approximately 303 feet deep, extending eastward from Albourne Street. The lot is heavily overgrown and slopes downward from Albourne Street. This lot appears to have been used for dumping general debris in the past.

Block 143, lot 3.04 is an irregular lot located directly to the east (rear) of Lot 3.03. This lot has 60’ of frontage on the western terminus of Virginia Street near where it intersects Muravski Court. This lot is also heavily wooded and contains delineated wetlands and wetlands buffer areas. The lots are arranged back-to-back with a common 252’-long north-south lot line. This lot is also heavily wooded. This lot contains visible areas of standing water and appears to have been used for dumping of construction debris in the past.

The lots combine to create a total tract area of 2.405 acres. Historically, this site once contained 7 abutting parcels: Block 143, Lots: 3.01, 4, 5, 6, 7; Block 144.02, Lot 7; plus, the former Virginia Street right-of-way, which was vacated by the Borough and sold to a previous property owner. The current arrangement of lots was created through several recent lot consolidations and subdivisions. The chronology of previous development applications is described below along with additional analysis as to why development has historically been difficult at this site.

Previous Attempts at Development

There have been several previous development applications for portions of this property:

1. In 2013, a previous developer filed PB-2013-10 seeking Preliminary and Final Major Subdivision approval to create two (2) new lots from old lots 3.01, 4, 5, 6 & 7. The old Virginia Street right-of-way was not part of that application at that time. No street vacation was sought. The applicant began testimony to the Planning Board on April 15, 2014. The Board asked the applicant to return with a more finalized version of the proposal, including clarification on the Virginia Street right-of-way. That development application was never prosecuted after that hearing.
2. In 2014 a previous developer filed ZB-2014-23 seeking a subdivision and planning variance under §40:55D-35/36 to consolidate Block 143, Lots 3.01, 4, 5, 6, 7 into a single parcel and create a lot which does not front on to an improved street. That application proposed one (1) single-family dwelling on the site on (existing at that time) lots 3.01 and 4, with no development proposed on lots 5, 6 or 7. Wetlands were shown on the southeastern portion of the tract. No encroachment was proposed in that wetlands area, however, the application did propose an 18’-wide gravel driveway within the Virginia Street right-of-way, crossing the wetlands to connect the new dwelling to the Virginia/Muravski Court intersection. That application was approved by the South River Zoning Board of Adjustment on February 24, 2015 and a Resolution of Memorialization was adopted on March 31, 2015. At the hearings of 10/28/14 and 2/24/15, the applicant agreed to several conditions of approval, including:

January 20, 2015 Planning Report Comment 10G: A conservation easement should be created for the entire eastern portion of this site where wetlands areas or buffers exist to require this area to be

maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area, and;

January 20, 2015 Planning Report Comment 10H: *The lots shall be consolidated, and a deed restriction shall prohibit the further subdivision of the site.*

3. Sometime after 2015, notwithstanding the above conditions. Middlesex County recorded the lot consolidation from ZB-2014-23 and merged lots old lots 3.01, 4, 5, 6 & 7 into new lot 3.02. Virginia Street right-of-way was still not included in the subject property at that time. This development was never constructed by the developer.
4. In 2018, a developer filed a Preliminary and Final Major Subdivision application with the South River Planning Board to again reconfigure the site; The portion of the Virginia Street right-of-way abutting this tract to the north was vacated by the Borough and acquired by the same developer involved with the previous applications. Also, the slim triangular lot on the north side of the old Virginia Street right-of-way, which was shown as (old) Block 144.02, Lot 7 was also acquired by the developer. Those two parcels were combined as new Block 144.02, Lot 7.01. This combined lot was then added to the subject tract. The total tract area increased to 105,201 sf or 2.415 acres.
5. In 2018, after 144.02, Lot 7.01 was brought into common ownership with new lot 3.02, the enlarged 105,201-sf tract was proposed to be consolidated and re-subdivided again to add a new north-south lot line to create two (2) building lots. A west lot (3.03) was to contain a new single-family dwelling. An east lot (3.04) was also to contain a new single-family dwelling to be constructed in the wetlands areas of that lot, which would violate the above conditions of approval. A modified driveway and wetlands crossing was proposed. Hearings began on this application, however, since the 2018 proposal violated conditions 10G and 10H described above, that application was not fully prosecuted at that time.
6. In 2019, a developer applicant filed application ZB-2019-14 with the South River Zoning Board seeking to excise conditions 10G and 10H from the 2015 Zoning Board approval. The Zoning Board consented, and those items were successfully removed by the Zoning Board Resolution of approval.
7. The developer re-filed the 2018 subdivision application as PB-2019-03. Again, the developer proposed to consolidate and re-subdivide the 105,201-sf tract with a new north-south lot line to create two (2) new building lots. A west lot (3.03) was proposed and was to contain 38,120 sf and a new single-family dwelling. An east lot (3.04) was proposed to contain 67,081 sf and a new single-family dwelling to be constructed in the wetlands/buffer areas of that lot. To allow construction in this area, the applicant sought and received an NJDEP permit to fill a portion of these wetlands. The west lot was to have 60 LF of frontage on, but no driveway connection to Albourne Street. The east lot was to have a direct driveway connection to Virginia Street. A new interior driveway was proposed to begin at lot the east lot 3.03, cross the wetlands on lot 3.04, merge into a single driveway serving both dwellings, and continue eastward to the northeast corner of the property to connect to the existing Virginia Street right-of-way. A new conservation easement was created for the entire portion of this site where wetlands areas or buffers exist. The language of the restriction required this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. That subdivision application was approved in 2019. The lots were recorded. Easements were filed and tree replacement contributions and satisfied. A final "resolution compliance" report was issued by this office in 2022. These are the lots which currently exist on the site today. However, no construction has ever occurred on the site.

8. In 2025, the property owner of 2 Muravski Court (Block 93, Lot 1.09) filed a lawsuit against the previous property owner involved in the 2013-2024 development applications. This lawsuit aimed to enforce a 2015 property sale contract in which the former property owner/developer agreed to sell a portion of the current development site (p/o old Block 144.02, Lot 7) to the owner of 2 Muravski Court. This sale only involved a $\pm 1,713$ sf area on the eastern tip of Block 144.02, Lot 7. The result of this sale would enlarge the residential property at 2 Muravski to include the "missing corner" of that lot. Judgement was issued in favor of 2 Muravski Court, however that subdivision has yet to be recorded. The owner of 2 Muravski Court has filed a subdivision/lot consolidation application with the South River Planning Board, which, at the time of this report, remains pending and un-recorded.
9. In 2025, the current property owner (Albourne Woods Apartments, LLC) came to acquire the site including parcels: Lot 3.03 and 3.04 and, based on previous difficulty in developing this site for single-family dwellings, requested this site be considered an area in need of redevelopment.

Images of the Study Area: (October 23, 2025)



Albourne Street Frontage



Albourne Street



Dumping on site



Virginia Street frontage



Wetlands, standing water on site



Dumping on site

Application of Study Area Criteria:

Redevelopment criteria “c” applies to this property. This criteria applies when: *Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.*

Refer below to the following overlay map (2025) to view how the study area (in red) overlays the (6) old tax parcels and the old Virginia Street right-of-way (in yellow) on the site. (2025 Image)



2025



This is an aerial map from Google Earth showing a residential neighborhood. The map is overlaid with yellow lines representing property boundaries. The streets visible are Spruce Ave, Adams St, Ferris St, and Brant St. There are two large, irregularly shaped lots in the center, one of which is heavily wooded. The map is overlaid with a yellow grid of property lines. The Google Earth logo is visible in the bottom right corner.

The 2nd prong of criteria “c” requires a showing that *by reason of remoteness, lack of means of access to developed portions of the municipality, topography, or nature of the soils, the site is not likely to be developed* by private capital. There have been several previous development applications for this site

since 2013. This report relies on the history development applications on the site shown on the previous pages. Although there have been over a decade of efforts to develop this site in accordance with the applicable zone, these attempts have failed to generate any concrete development whatsoever on the property. In fact, even after an eventual subdivision approval was granted and the lots subdivided for development, the site remains undeveloped. **Reasons for this failure revolve around three site problems; access difficulty, topography, and wetland soil conditions. These conditions are further explained below:**

This property has had persistent challenges dealing with lack of means of site access, topography and soil conditions beginning with the initial development application and continuing to the present day. The first attempt at development at this site began in 2013 with old lots 3.01, 4, 5, 6 & 7. **At that time, those parcels did not front on a developed street giving access and were thus isolated from the surrounding neighborhood.**

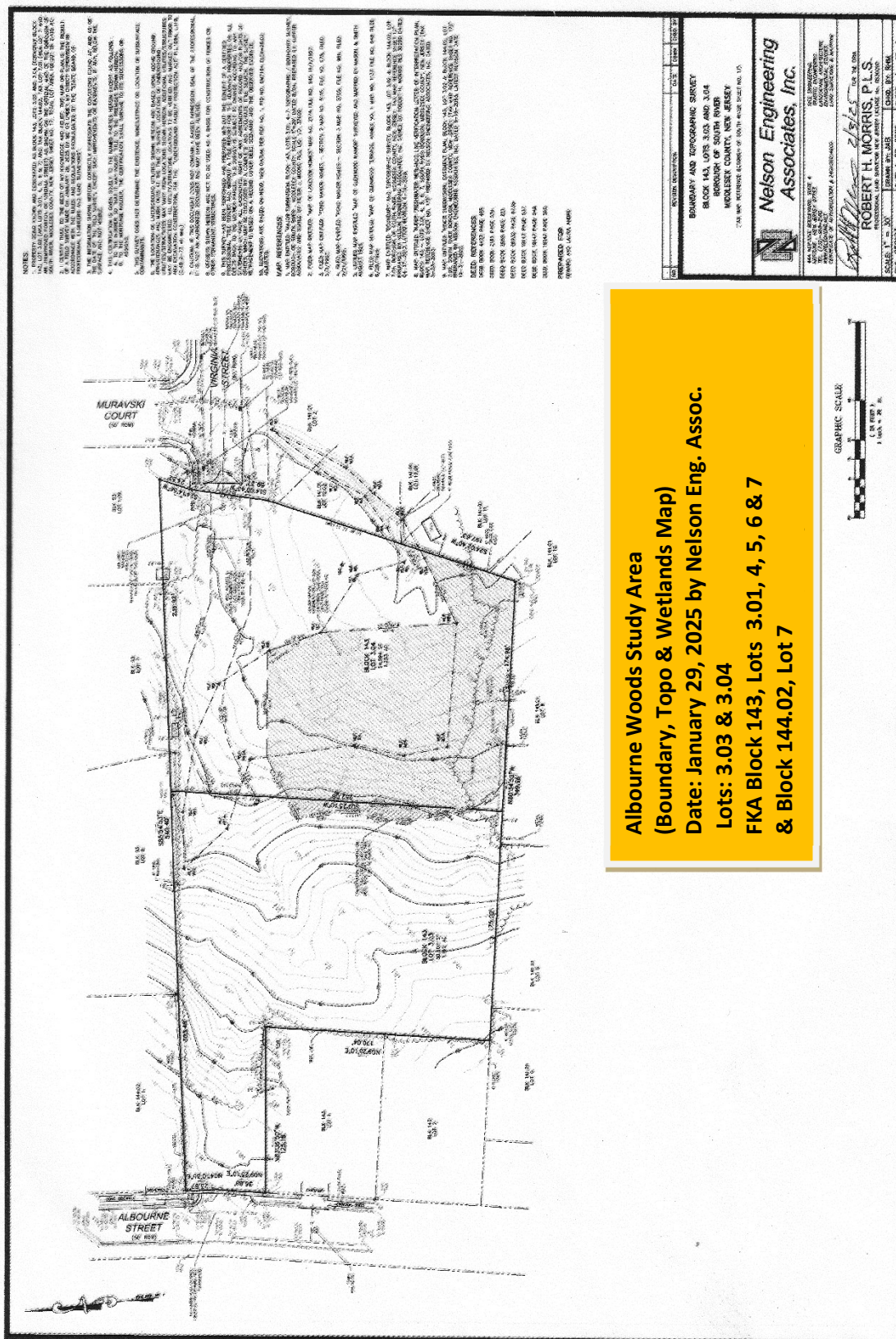
From the eastern approach, the lots were inaccessible without constructing a new accessway on the site. These lots fronted on the south side of an unimproved paper street; Virginia Street, which has never been developed along the frontage of these lots. On the eastern approach to Virginia Street, street improvements terminated at the intersection of Virginia Street and Muravski Court. When the previous owner sought to develop those lots for single-family development, no street improvements were proposed, as a wetlands permit from NJDEP was not expected to be issued to construct a street at this location. Instead, a driveway was proposed inside the Virginia Street right-of-way and relief was sought under NJSA 40:55D-36 to permit development on a site which does not front on a street giving access. A wetlands permit was also needed to install this narrow residential driveway which would cross the wetlands inside the right-of-way on the eastern portion of the site. This driveway was designed to serve a single proposed dwelling on the western portion of the property. **Ultimately, the Borough Council did not permit this private accessway to be constructed in the Borough right-of-way.**

The western approach to the site has historically not been considered feasible due to steep slopes in this location; There exists an approximate 18' grade change from the centerline of Albourne Street to the developable area of the site, which would require significant earthwork and engineering to construct a driveway in this 60' wide location. This would not be economically feasible when designed to serve just one (1) single-family dwelling, as was previously proposed. Relatedly, this lack of access also make servicing the site with utilities problematic for single-family development. No water, sewer, natural gas or electric utilities are present on the site or in the old Virginia Street right-of-way. The nearest utility connections would need to be constructed from Albourne Street or Virginia/Muravski intersection. **The 2013 application was never fully prosecuted because issues of access, problems with topography, and remoteness prevented creation of a realistically approvable development application.**

A previous developer later returned and filed a new application in 2015 seeking development approvals for a subdivision and single-family dwelling on the property. The site still had no direct access to an improved street. That application was approved subject to two (2) difficult restrictions; 1) Borough Council approval of the improvements in the right-of-way and, 2) NJDEP approval relative to wetlands, buffer and driveway crossings. That application also encumbered the site with two (2) conditions of approval/deed restrictions: a conservation easement over the wetlands and a lot consolidation and prohibition on further subdivision. **Although this was approved by the land use board, problems with soils and wetlands prevented the applicant from satisfying all conditions of approval. No construction occurred.**

By 2018, at the applicant's request, the Borough vacated the Virginia Street right-of-way abutting the property and sold that parcel to the developer. The enlarged site was consolidated and re-subdivided to create two (2) new parcels. Although access has slightly improved via the street dedication, the

problematic access, topography and wetland soils raised in the 2013 application continued to be present on the site and frustrate development under the Borough's Zoning Ordinance and the R-100 Zone. **That application was not perused because the 2015 wetlands (soils) restrictions.**



In 2019, with the restrictions removed, the developer then resubmitted another development application to construct one (1) single-family dwelling on the western side of the site with a northeast driveway connection (now over private property) to Virginia Street at Muravski Court. A new conservation easement was created for the entire portion of this site over wetlands and buffers. The language of the restriction required this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. The wetlands conservation easement was shown on the attached map. (Boundary, Topography and Wetlands Map, January 29, 2025) This conservation easement would cover approximately 25% of the current study area. The developer was also required to provide a significant tree replacement fund payment in lieu of on-site tree replacement. That subdivision application was approved in 2019. Final Resolution compliance took several years to finalize while the developer requested the Borough revise the tree replacement fund amount listed in the ordinance to reduce the contribution due. **Although it was approved over 6 years ago, no development has occurred on this site.**

In summary, although some version of development of a single-family use was eventually approved on this site after 10 years of difficulty and several different development applications, six (6) additional years have passed since that time, and no construction has ever occurred on this site. The wetlands restrictions and deed restrictions render a large portion of this site undevelopable. The resulting condition is that, under the current zoning regulations, the site is only capable of containing a 1-2 single-family detached homes and development of that home depends on NJDEP wetlands permits. Ultimately, the cost of accessing, developing and bringing utilities to this site would be so significant that no reasonable economic return is possible from single-family home development as approved by the Borough. **Even with development approval in place, the difficulty in developing this site stems from problems with access, remoteness and soils.**

Report Summary

The study area has been vacant for more than 20 years while development of this property has always been complicated by problems of remoteness, lack of access, topography and wetlands soils which have prevented this site from being developed as prescribed in the underlying R-100 Single-family Residential Zone. As described hereinabove, this site has a 12-year history of development applications – none of them able to deliver development on this site. Access from Virginia Street is complicated by wetland soils on that portion of the site and would require NJDEP approval to construct a driveway across a wetland area. The issues with access from Albourne Street involve topography and have not been resolved;

- A. Study Area Block 143, Lots 3.03 and 3.04 qualify as an area in need of redevelopment under criteria “c.”

Redevelopment Recommendations

- A. *The South River Planning Board may find in the affirmative that all sites identified in the designating resolution satisfy the redevelopment criteria and may recommend to the South River Borough Council to be designated as an Area in need of Redevelopment.*

Appendix Documents:

Ordinance Vacating Virginia Street right-of-way

Resolution for sale of old Virginia Street parcel

Various Planning Reports for development on this site: 2013-2022

First Reading 9/14/15
Final Reading 9/28/15

ORDINANCE 2015-22

AN ORDINANCE OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, VACATING ALL OF THE RIGHT, TITLE AND INTEREST OF THE BOROUGH OF SOUTH RIVER IN A PORTION OF VIRGINIA STREET BETWEEN ALBOURNE STREET AND MURAVSKI COURT

WHEREAS, the governing body of the Borough of South River has been requested to vacate all of the right, title and interest of the Borough in a portion of Virginia Street between Albourne Street and Muravski Court.

WHEREAS, the governing body makes the determination that the public will not adversely be affected by the vacation of the Borough's interest in a portion of Virginia Street between Albourne Street and Muravski Court.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of South River, County of Middlesex, State of New Jersey, as follows:

SECTION 1. There is hereby vacated all of the right, title and interest of the public for all public usages and purposes in and to that portion of Virginia Street between Albourne Street and Muravski Court as is set forth on Exhibit A, attached hereto and made a part hereof. However, the Borough does hereby expressly reserve and except from the vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by cable television company, as defined in the "Cable Television Act," P.L. 1972, c. 186, (C. 48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, being vacated by the provisions of this ordinance.

SECTION 2. At least one (1) week prior to the time fixed for further consideration for final passage of this ordinance, a copy hereof, together with a notice stating the introduction of the ordinance on first reading and the time and place when and where the ordinance will be considered for final passage, shall be mailed to every person whose lands may be affected by the adoption of the ordinance.

SECTION 3. This ordinance shall be published at least once in an official newspaper of the Borough at least ten (10) days prior to the time fixed for consideration of the final passage of the ordinance.

SECTION 4. The Borough Clerk, if this ordinance is adopted on final reading, shall submit a certified copy of this ordinance, together with proof of publication, to the Middlesex County Clerk's Office for recording in the Book of Vacations.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law.

SECTION 6. A copy of Exhibit A as referenced herein shall be kept on file and made available for public inspection in the Borough Clerk's Office during normal business hours.

Dated:

ATTEST:

JOHN M. KRENZEL, Mayor

PATRICIA O'CONNOR, BOROUGH CLERK

RESOLUTION OF THE BOROUGH OF SOUTH RIVER, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY,
AUTHORIZING THE SALE BY PUBLIC AUCTION OF A PORTION OF VIRGINIA STREET BETWEEN ALBOURNE
STREET AND MURAVSKI COURT

WHEREAS, the Borough of South River presently owns property commonly known as Virginia Street between Albourne Street and Muravski Court which legal description is attached hereto and incorporated herein as Schedule "A" and

WHEREAS, the Borough Council has determined that the property is presently not needed for public use; and

WHEREAS, the Borough Council has set a minimum bid of \$6,000.00 for the purchase of the identified property; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13, it is the desire of the Borough Council to advertize for and receive bids for the sale of said property at public sale in accordance with the minimum bid; and

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of South River, County of Middlesex, State of New Jersey, as follows:

1. That the Borough owned the property commonly known as Virginia Street between Albourne Street and Muravski Court which legal description is attached hereto and incorporated herein as Schedule A shall be sold at auction in accordance with the terms of this Resolution unless all bids on said property are rejected.

2. That the minimum bid for said property shall be \$6,000.00.

3. That, pursuant to N.J.S.A. 40A:12-13, the governing body reserves the right to reject any and all bids on said property.

4. That the purchaser shall be required to pay all of the Borough's fees associated with the sale, including but not limited to, closing costs, legal advertising costs and attorney's fees.

5. That a notice of said sale shall be published in the official newspaper of the municipality on two (2) occasions, at least once a week during (2) consecutive weeks, the last publication to be not earlier than seven (7) days prior to such public sale.

DATED: September 28, 2015

Councilmember

Councilmember

Bignell Planning Consultants, Inc.

424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
PHONE: (732) 636 - 0200
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March 7, 2014

Michael Beck, Chairperson
South River Planning Board
5 Theresa Place
South River, NJ 08882

Re: Edward Andre
Preliminary Major Site Plan
Block: 143, Lot 3.01, 4, 5, 6, 7
Virginia Street
Application #PB 2013-10
2nd Completeness, Fee & Plan Review

Dear Sir:

This office has received a Preliminary and Final Major Subdivision Plan, dated: February 7, 2014 relative to this application and offers the following planning comments for the Board's consideration.

1. Property Description

The subject property consists of an existing 67,457 sf tract of land located on the south side of the Virginia Street right-of-way, between Albourne Street and Muravski Court. The tract contains five (5) abutting lots under common ownership. The lots combine to form a trapezoidal tract with 400' of frontage on the Virginia Street right-of-way. The site is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street is an unimproved right-of-way on the frontage of this site.

2. Proposed Development

The applicant proposes a subdivision so as to create two (2) new building lots on this property. A new north-south lot line is proposed and will be perpendicular to the Virginia Street right-of-way. All existing interior lot lines will be removed. Proposed lot 4.01 will be an 18,059 sf lot on the western side of the site and will contain a new 2-story dwelling. No wetlands are present on lot 4.01.

Proposed lot 5.01 will be a 49,398 sf lot located on the eastern side of the tract and will also contain a single-family residential dwelling. The dwelling on lot 5.01 will be located on the extreme western side of that lot. Wetlands areas are located on most of the remainder of lot 5.01. The applicant is proposing to encroach into the wetlands transition area and has proposed to create a compensation area on the plan.

The applicant is also proposing to construct a pavement road/driveway in the Virginia Street right-of-way, connecting the two proposed dwellings to the Virginia Street/Muravski Court intersection. No street connection to Albourne Street is proposed. No street vacation is shown on this plan.

3. Completeness Review

This office recommends that this application be deemed **complete** for Preliminary Subdivision approval.

4. Master Plan Review

The 2011 Master Plan recognizes this property as vacant. The proposed single family dwellings are not consistent with this land use recommendation.

5. Zoning Compliance: R-100 (Single-Family Residential) Zone

A. Use:

The proposed single family dwellings are permitted in this zone.

Complies.

B. Bulk:

DESCRIPTION	REQUIRED	PROPOSED LOT 4.01	PROPOSED LOT 5.01	CONFORMITY
MINIMUM LOT AREA	10,000 SF	18,059 SF	49,398 SF	COMPLIES
MINIMUM LOT WIDTH	100'	101'	292'	COMPLIES
MINIMUM LOT DEPTH	90'	170'	177'	COMPLIES
MINIMUM FRONT SETBACK	25'	31'	31'	COMPLIES
MINIMUM SIDE SETBACK	5'	5.5'	5.5'	COMPLIES
MINIMUM BOTH SIDE SETBACK	15'	>15'	>15'	COMPLIES
MINIMUM REAR SETBACK	25'	107'	90'	COMPLIES
MAXIMUM BUILDING HEIGHT	2 ½-STORY, 35'	35'/2.5	35'/2.5	COMPLIES
MAXIMUM % BUILDING COVERAGE	40%	7.2%	3.0%	COMPLIES
MAXIMUM % IMPERVIOUS COVERAGE	50%	15.3%	4.7%	COMPLIES

All bulk conditions comply.

6. Parking Review (RSIS)

Required: unknown bedrooms: (2.5 spaces)

Provided: 2 spaces on existing driveway

Provided: 2 new driveway spaces

More information required.

7. Landscaping

Required: street trees on 50' centers = TBD trees

Provided: none shown

More information required.

8. Land Use Inventory

The following land uses are found in the neighborhood:

North: Virginia Street right-of-way, single-family residential beyond

East: single family residential

South: single-family residential

West: single-family residential

9. Fee Review

A. Application Fee:

Prelim. Major Subdivision Fee: \$450.00

Amount Submitted: (Ck# 2621) \$450.00

Balance Due: **\$ 00.00**

B. Escrow Fee:

Prelim. Major Subdivision Fee: \$5,000.00

Amount Submitted: (Ck#2620) \$3,000.00

Amount Submitted: (CK#5108) \$2,000.00

Balance Due: **\$ 00.00**

10. Plan Review Comments

- A. The applicant must document approvals or exemptions from the Middlesex County Planning Board, Freehold Soil Conservation District, and all other agencies having jurisdiction.
- B. This office recommends that this application proceed for Preliminary Major Subdivision approval. If granted, the applicant should secure documentation of all required outside agency approvals or exemptions, Borough Council approvals, etc., and then return to the Board for Final Subdivision approval.
- C. The applicant should submit documentation of approval from the NJDEP relative to the proposed transition area compensation plan, the wetlands crossing plan, and all other approvals needed from the NJDEP. This should be provided before final approval is granted.
- D. The applicant should clarify if a street vacation of Virginia Street is proposed. This is not shown on the plan. In the alternative, the applicant should, as part of the Preliminary Major Subdivision application, seek formal waivers for specific street improvements as deemed necessary by the Board Engineer.
- E. This office has no objection to waiver of street trees along the Virginia Street right-of-way, as long as the area will remain wooded.
- F. This office recommends that deed restriction and conservation easement be created for the entire eastern portion of lot 5.01 east of the wetlands buffer line shown on the plan, excluding the transition area encroachment. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area.
- G. This office recommends that a deed restriction prohibit the further subdivision of both proposed lots.
- H. The applicant has included a "construction" plan. The applicant should consider revising the title to "Subdivision and Construction Plan". This plan/plat should label the proposed "lot lines to be removed" for clarity.
- I. A bedroom and parking calculation / garage information should be provided for the proposed dwellings to verify parking compliance. A plan note will satisfy this item.
- J. The applicant should provide a compliant tree removal and replacement plan. This item should not be waived. This office has no objection to a sample area being used for calculation purposes in lieu of a complete tree removal inventory. Trees removed to construct the driveway/street should be included.
- K. The applicant should provide all retaining wall, water, sewer, and street improvements to the satisfaction of the Borough/Board Engineer.

11. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Revised plans and documentation addressing the above planning comments to the satisfaction of the Board.
- B. Submission of documentation from any outside agency having jurisdiction.
- C. Testimony relative to the substantial detriment to the public good should any variances be granted.
- D. Testimony relative to the substantial impairment of the promulgated land use policies of the Borough should any variances be granted.
- E. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Henry D. Bignell". The signature is fluid and cursive, with the first name "Henry" and last name "Bignell" clearly distinguishable.

Henry Bignell, PP
For the Firm

HB/TB

cc: All Board & Staff Members

E. Andre, Applicant

D. Auciello, Esq., Applicant's Attorney

J. Buletza, PE, Applicant's Engineer

File #201/13-10

Bignell Planning Consultants, Inc.

**424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
PHONE: (732) 636 - 0200
FAX: (732) 218 - 5975
MAIL@BIGNELLPLANNING.COM**

January 20, 2015

Frank Demonico, Chairman
South River Zoning Board of Adjustment
45 Ridge Road
South River, NJ 08882

Re: Edward Andre
Special Permit (§35-36)
Block 143, Lots 3.01, 4, 5, 6,7
29 Terry Avenue
(Virginia Street)
Application # ZB-2014-23
2nd Planning Review

Dear Sir:

This office has received a plot plan, revised through: January 7, 2015, a letter from the South River Rescue Squad, dated: January 9, 2015, a letter from the South River Police Department, (undated), and letters from the South River Fire Official, dated: November 14, 2014 and January 16, 2015 relative to the above application and offers the following planning comments for your consideration.

1. Property Description

The subject property consists of an existing 67,457 sf tract of land located on the south side of the Virginia Street right-of-way, between Albourne Street and Muravski Court. The tract contains five (5) abutting lots under common ownership. The lots combine to form a trapezoidal tract with 400' of frontage on the Virginia Street right-of-way. The site is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street is an unimproved right-of-way on the frontage of this site.

2. Proposed Development

The applicant proposes to construct a single family dwelling on the western portion of the tract. Only one (1) dwelling is proposed on the tract on lots 3.01 and 4. No development is proposed on lots 5, 6 or 7. All existing interior lot lines will be removed. Wetlands areas and wetlands buffers are located on the eastern portion of the tract, however, no wetlands disturbance or encroachment is proposed in that area.

The applicant is also proposing to construct an 18'-wide gravel driveway in the Virginia Street right-of-way connecting the proposed dwelling to the Virginia Street/Muravski Court intersection. No street connection to Albourne Street is proposed. No street vacation is shown on this plan. The proposed gravel driveway will cross over a wetland area shown in the right-of-way.

3. Completeness Review

This office recommends that this application be deemed **complete**.

4. Master Plan Review

The 2011 Master Plan recognizes this property as vacant. The Master Plan provides no additional recommendations for this property.

5. Zoning Compliance: R-100 (Single-Family Residential) Zone

C. Use:

The proposed single family dwelling is a permitted use in this zone.
Complies.

D. Bulk:

No bulk relief sought. More information required for lot frontage.

6. Parking Review (RSIS)

Required: unknown bedrooms: (2.5 spaces)

Provided: 2+ driveway and garage spaces

Complies.

7. Landscaping

Required: street trees on 50' centers = TBD trees

Provided: none shown

More information required.

Required: Compliance with tree removal and replacement ordinance

Provided: Tree removal and replacement calculations

Violation. More information required.

8. Land Use Inventory

The following land uses are found in the neighborhood:

North: Virginia Street right-of-way, single-family residential beyond

East: single family residential

South: single-family residential

West: single-family residential

9. Fee Review

Defer to Board Secretary

10. Plan Review Comments

A. The applicant must document approvals or exemptions from the Middlesex County Planning Board, Freehold Soil Conservation District, and all other agencies having jurisdiction.

B. This application requires a special permit/variance under N.J.S.A. §40:55D-35 & 36 to allow development of a lot which fronts on an improved street. The applicant needs to provide testimony to establish that a "practical difficulty or unnecessary hardship" exists which prevents the improvement of this road to Borough standards. The Board can impose conditions on this approval.

C. The applicant should solicit the written comments of the Borough emergency officials relative to the adequacy of the proposed driveway to accommodate emergency vehicles.

D. The applicant should submit documentation of approval from the NJDEP relative to the proposed wetlands crossing plan, and all other approvals needed from the NJDEP. This should be provided before approval is granted. Permit numbers should be shown on the plan.

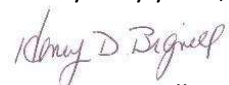
- E. The applicant should clarify if a street vacation of Virginia Street is proposed. This is not shown on the plan. In the alternative, the applicant should seek formal waivers for specific street improvements as deemed necessary by the Board Engineer. Relief may be required for lot frontage (lot width).
- F. This office has no objection to waiver of street trees along the Virginia Street right-of-way, as long as the area will remain wooded.
- G. A conservation easement should be created for the entire eastern portion of this site where wetlands areas or buffers exist. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. This should be a condition of approval.
- H. This office recommends that the lots be consolidated and a deed restriction shall prohibit the further subdivision of the site. This should be a condition of approval. Revised plans and or deeds shall be submitted.
- I. The applicant should provide a compliant tree removal and replacement plan. This item should not be waived. This office has no objection to a sample area being used for calculation purposes in lieu of a complete tree removal inventory. Trees removed to construct the driveway/street should be included.
- J. The applicant should provide all retaining wall, water, sewer, and street improvements to the satisfaction of the Borough/Board Engineer.

11. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Revised plans and documentation addressing the above planning comments to the satisfaction of the Board.
- B. Submission of documentation from any outside agency having jurisdiction.
- C. Testimony relative to the substantial detriment to the public good should the variances be granted.
- D. Testimony relative to the substantial impairment of the promulgated land use policies of the Borough should the variances be granted.
- E. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,



Henry Bignell, PP
For the Firm

HB/TB

cc: All Board & Staff Members

E. Andre, Owner/Applicant

File # 202/14-21

Bignell Planning Consultants, Inc.

**424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
PHONE: (732) 636 - 0200
FAX: (732) 218 - 5975
MAIL@BIGNELLPLANNING.COM**

July 15, 2018

Michael Beck, Chairperson
South River Planning Board
5 Theresa Place
South River, NJ 08882

Re: Edward & Laura Andre
Minor Subdivision
Block 143, Lot 3.02 (Lots 3.01, 4, 5, 6, 7)
Block 144.02, Lot 7.01 (Lot 7)
Virginia Street right-of-way (Vacated)
64 Virginia Street
Application # ZB-2018-07
Completeness, Fee and Planning Review

Dear Sir:

This office has received a minor subdivision plan, dated: June 19, 2018 and a property survey, dated: June 19, 2018 relative to the above application and offers the following planning comments for your consideration.

There have been previous applications for this general property. Application #ZB-2014-23 sought a planning variance under §40:55D-36 to create a lot which does not connect to an improved street. That application consolidated Block 143, Lots 3.01, 4, 5, 6, 7 into a single parcel and was approved in February 2015 by the South River Zoning Board of Adjustment. At the hearings of 10/28/14 and 2/24/15, the applicant agreed to several conditions of approval relative to that application. The applicant is now proposing a subdivision at this site and development in the wetlands areas of the site which may violate those conditions of approval.

1. Property Description

The original (2014) property consisted of a 67,457-sf tract of land located on the south side of the (former) Virginia Street right-of-way between Albourne Street and Muravski Court. The tract contained five (5) abutting lots (3.01, 4, 5, 6 & 7). The lots combine to form a trapezoidal tract with 400' of frontage on the Virginia Street right-of-way. The property is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street has never been improved at this location. These (5) lots were consolidated into a single parcel and are now known as Block 143, Lot 3.02. Since the 2014 approval was granted, two (2) new parcels have been added to this site; A portion of the Virginia Street right-of-way abutting this parcel to the north has been vacated and added to this tract. Also, a triangular lot on the north side of the Virginia Street right-of-way, formerly known as Block 144.02, Lot 7 has been added to this site. Those two parcels appear to now be combined and are shown as Block 144.02, Lot 7.01. The total tract area is 105,201 sf.

2. Proposed Development

The applicant proposes to subdivide this 105,201-sf tract with a new north-south lot line so as to create two (2) new lots. A west lot (3.03) is proposed and will contain 38,120 sf and a new single-family dwelling. An east lot (3.04) is proposed and will contain 67,081 sf and a new single-family dwelling which will be constructed in the wetlands and wetlands buffer area of that lot. The west lot will have 36 LF of frontage on, but no driveway connection to Albourne Street. The east lot will have a direct driveway connection to Virginia Street. To access the west lot (3.03), vehicles will travel over a proposed driveway 18'-wide gravel driveway on the east lot (3.04) which will connect both proposed lots Virginia Street. The proposed gravel driveway will cross over a wetland area. The plan does not clearly show any cross-access easements or lot lines to be eliminated.

3. Completeness Review

This office recommends that this application be deemed **incomplete**:

- A. This office recommends this applicant schedule a technical meeting with the Board professionals to clarify the proposal and the needed relief.
- B. The applicant needs to clarify if this application qualifies as a Major Subdivision under the Borough ordinance.
- C. The applicant has filed an application with the South River Planning Board, however, this application appears to request relief from conditions of approval imposed by the Zoning Board of Adjustment.
- D. All outstanding fees should be provided.

4. Master Plan Review

The 2011 Master Plan recognizes this property as vacant. The Master Plan provides no additional recommendations for this property.

5. Zoning Compliance: R-100 (Single-Family Residential) Zone

A. Use:

Single family dwellings are a permitted use in this zone.

Complies.

B. Bulk:

No bulk relief sought. More information required for lot frontage.

6. Parking Review (RSIS)

Required: unknown bedrooms: (2.5 spaces)

Provided: 2 driveways

More information required.

7. Landscaping

Required: street trees on 50' centers = TBD trees

Provided: none shown

More information required.

Required: Compliance with tree removal and replacement ordinance

More information required.

8. Land Use Inventory

The following land uses are found in the neighborhood:

North: single-family residential

East: single family residential

South: single-family residential

West: single-family residential

9. Fee Review

A. Bulk Variance: (\$75.00 x 3: number of variances)	\$ 225.00
Minor Subdivision:	\$ 450.00
Total Due:	<u>\$ 675.00</u>
Submitted: (Ck # 1029)	<u>\$ 525.00</u>
Balance Due:	\$ 150.00
B. <u>Escrow Fee:</u>	
Bulk Variance:	\$ 700.00
Minor Subdivision	\$3,000.00
Total Due:	<u>\$3,000.00</u>
Submitted: (Ck # 1030)	<u>\$3,700.00</u>
Balance Due:	\$ 700.00

10. Plan Review Comments

- A. The applicant must document approvals or exemptions from the Middlesex County Planning Board, Freehold Soil Conservation District, and all other agencies having jurisdiction.
- B. The applicant should submit documentation of approval from the NJDEP relative to the proposed wetlands crossing, wetlands encroachment and all other approvals needed from the NJDEP. This should be provided before approval is granted. Permit numbers should be shown on the plan.
- C. The applicant should provide documentation relative to the vacation of the Virginia Street right-of-way and the disposition of Block 144.02, Lot 7.
- D. The applicant needs to submit a written copy of the lot consolidation deed(s) resulting from the 2014 application.
- E. The former Virginia Street right-of-way and former Block 144.02, Lot 7: Does the applicant have clear title to these parcels? Have they been consolidated? What is the lot area of the consolidated lot 7.01?
- F. This application violates §40:55D-35 which reads, “no permit shall be issued for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such building or structure...” This application requires relief from this statute under the provisions of §40:55D-36.
- G. Although application #ZB-2014-23 did receive a planning variance under §40:55D-36 to create the particular arrangement of parcels associated with that application, this application proposes an entirely new and different arrangement of lots. This application requires a special permit/variance under N.J.S.A. §40:55D-35 & 36. The applicant needs to provide testimony to establish that a “practical difficulty or unnecessary hardship” exists which prevents the improvement to Borough standards. The Board can impose conditions on this approval.
- H. The plan set needs a dedicated subdivision plan/layer sheet.
- I. The previous application consolidated Lots 3.01, 4, 5, 6, 7 into a single parcel and was approved in February 2015 by the South River Zoning Board of Adjustment. At the hearing(s) of 10/28/14 and 2/24/15, the applicant agreed to comply with several planning review comments from the letter from this office dated: January 20, 2015, a number of which the applicant agreed to as conditions of approval. They include:

Comment 10G: A conservation easement should be created for the entire eastern portion of this site where wetlands areas or buffers exist. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. This should be a condition of approval. **The applicant agreed to this item on 2/24/15.**

Comment 10H: This office recommends that the lots be consolidated and a deed restriction shall prohibit the further subdivision of the site. This should be a condition of approval. Revised plans and or deeds shall be submitted. **The applicant agreed to the recording of this item on 2/24/15.**

The applicant is now proposing a subdivision at this site and development in the wetlands areas of the site which violates those conditions of approval. The applicant needs to address this item before proceeding with this application. Although this application has been filed with the South River Planning Board, the South River Zoning Board retains jurisdiction over this application and the conditions of the 2014 approval.

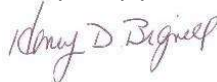
- J. The applicant should solicit the written comments of the Borough emergency officials relative to the adequacy of the proposed driveway to accommodate emergency vehicles.
- K. The applicant should provide a compliant tree removal and replacement plan. This item should not be waived. This office has no objection to a sample area being used for calculation purposes in lieu of a complete tree removal inventory. Trees removed to construct the driveway/street should be included.

11. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Revised plans and documentation addressing the above planning comments to the satisfaction of the Board.
- B. Submission of documentation from any outside agency having jurisdiction.
- C. Testimony relative to the substantial detriment to the public good should the variances be granted.
- D. Testimony relative to the substantial impairment of the promulgated land use policies of the Borough should the variances be granted.
- E. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,



Henry Bignell, PP
For the Firm

HB/TB

cc: All Board & Staff Members

- F. Andre, Owner/Applicant
File 202/18-16
(See 202/14-21)

Bignell Planning Consultants, Inc.

**424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
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FAX: (732) 218 - 5975
MAIL@BIGNELLPLANNING.COM**

July 19, 2019

Robert Bodak, Chairman
South River Zoning Board of Adjustment
48 Washington Street
South River, NJ 08882

Re: Edward & Laura Andre
Interpretation/Removal of Conditions
Block 143, Lot 3.02 (Lots 3.01, 4, 5, 6, 7)
Block 144.02, Lot 7.01 (Lot 7)
Virginia Street right-of-way (Vacated)
64 Virginia Street
Application #ZB-2014-23 (Original §35/36)
Application #ZB-2019-14 (Interpretation)
Application #PB-2018-07 (Subdivision)
2nd Completeness, Fee and Planning Review

Dear Sir:

This office has received a minor subdivision plan, (7 sheets) revised through: January 3, 2019, and a minor subdivision plan (1 sheet plat intended for filing), dated: January 2, 2019, a boundary and topographic survey, revised through: June 19, 2018, a freshwater wetlands letter of interpretation, dated: January 23, 2017, a letter from the Middlesex County Planning Board, dated: August 30, 2018, a letter from the Freehold Soil Conservation District, dated: January 31, 2019, a deed (Virginia Street r-o-w transfer), dated: July 25, 2016, a deed of lot consolidation (7 total lots) dated: February 1, 2017, a permit from the NJDEP, dated: March 12, 2019, a letter from the applicants attorney, dated: June 19, 2019, and a development narrative letter from the applicants attorney (3 pages, undated) relative to the above application and offers the following planning comments for your consideration.

THIS IS NOT A DEVELOPMENT APPLICATION. APPLICANT IS NOT SEEKING APPROVAL. THE APPLICANT IS ASKING THE BOARD TO MAKE FACTUAL FINDINGS AND/OR TO REMOVE CONDITIONS OF APPROVAL.

1 History off Previous Applications

A. In 2013, the applicant filed PB-2013-10. That application sought P/F Major Subdivision approval to create two (2) new building lots from existing lots 3.01, 4, 5, 6 & 7. No street vacation was proposed at that time. The applicant began testimony to the Planning Board on April 15, 2014; however, the Board asked the applicant to return with a more finalized version of the proposal, including clarification on what would be proposed for the Virginia Street right-of-way. The application never proceeded after that hearing.

- B. In 2014, the applicant filed ZB-2014-23. That application sought relief under §40:55D-36 to permit a building on a lot which does not connect to a street. For approval, the applicant needed to demonstrate that although the lot did not connect to the street, emergency vehicles could still access and service the dwelling. The applicant presented testimony to the Zoning Board on October 28, 2014 and February 24, 2015. One (1) dwelling was proposed on the tract on lots 3.01 and 4. No development was proposed on lots 5, 6 or 7. All existing interior lot lines were to be removed and lots 3.01, 4, 5, 6, 7 was to be consolidated into a single parcel. Wetlands areas and buffers were shown on the eastern portion of the tract; however, no disturbance or encroachment was proposed in that area. The application proposed construction of an 18'-wide gravel driveway in the Virginia Street right-of-way to connect the dwelling to the Muravski Court intersection. The gravel driveway would cross over a wetland area located inside the right-of-way. Although it was not shown on the plan, the applicant indicated at the hearing that it would seek a vacation of the Virginia Street right-of-way in the future. At the hearings of 10/28/14 and 2/24/15, the applicant agreed to several conditions of approval including items 10G and 10H from the Planning Report dated: January 20, 2015. That application was approved on February 24, 2015 and a Resolution of Memorialization was adopted on March 31, 2015.
- C. In 2018, the applicant filed an application seeking Preliminary and Final Major Subdivision approval at this location. In 2018, lots 3.01, 4, 5, 6, 7 were consolidated into new lot 3.02. The Virginia Street right-of-way was vacated and is now known as Block 144.02, Lot 7.01. With this application, the applicant proposed to consolidate and subdivide the entire 105,201-sf tract with a new north-south lot line so as to create two (2) new lots. A west lot (3.03) is proposed and will contain 38,120 sf and a new single-family dwelling. An east lot (3.04) is proposed and will contain 67,081 sf and a new single-family dwelling which will be constructed in the wetlands and wetlands buffer area of that lot. The west lot will have 36 LF of frontage on but no driveway connection to Albourne Street. The east lot will have a direct driveway connection to Virginia Street. To access the west lot (3.03), vehicles will travel over a proposed 18'-wide gravel driveway on the east lot (3.04) which will connect both proposed lots Virginia Street. The proposed gravel driveway will cross over a wetland area. The plan does not clearly show any cross-access easements or lot lines to be eliminated. This application has not been deemed complete.
- D. On July 16, 2019, after several technical meetings, the applicant filed an application to the South River Zoning Board seeking to determine if the applicant is bound by the conditions of the 2015 approval and/or to excise conditions from that approval. Following the resolution of that matter, the applicant intends to pursue the subdivision application described above before the South River Planning Board.

2. Property Description

The original (2014) property consisted of a 67,457-sf tract of land located on the south side of the (former) Virginia Street right-of-way between Albourne Street and Muravski Court. The tract contained five (5) abutting lots (3.01, 4, 5, 6 & 7). The lots combine to form a trapezoidal tract with 400' of frontage on the Virginia Street right-of-way. The property is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street has never been improved at this location. These (5) lots have recently been consolidated into a single parcel and are now known as Block 143, Lot 3.02. Since the 2014 approval was granted, two (2) new parcels have been added to this site; A portion of the Virginia Street right-of-way abutting this parcel to the north has been vacated and added to this tract. Also, a triangular lot on the north side of the Virginia Street right-of-way, formerly known as Block 144.02, Lot 7 has been added to this site. Those two parcels appear to now be combined and are shown as Block 144.02, Lot 7.01. The total tract area is 105,201 sf.

3. Requested Relief

The applicant is asking the South River Zoning Board to have two (2) conditions of 2015 approval declared void and/or removed:

- A. At the hearing(s) of 10/28/14 and 2/24/15, the applicant agreed to two (2) items: 10G and 10H from the Planning Report dated: January 20, 2015:

(10.G) A conservation easement should be created for the entire eastern portion of this site where wetlands areas or buffers exist. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. This should be a condition of approval.

(10.H) This office recommends that the lots be consolidated and a deed restriction shall prohibit the further subdivision of the site. This should be a condition of approval. Revised plans and or deeds shall be submitted.

- B. As to the 10.G conservation easement, the March 31, 2015 Resolution adopted by the Board included this item and reads,

(Condition 7) "Applicant shall provide a Conservation Easement for the eastern portion of the site covering the wetlands areas and buffers; the language of the Conservation Easement shall be reviewed and approved by the Zoning Board attorney."

That easement was never created. Instead, after the 2015 approval, the applicant sought and received permits from the NJDEP (issued March 12, 2019) to fill a 27,659-sf portion of the wetlands on the site. The applicant believes that the issuance of that permit represents a "changed circumstance" in the application and is therefore seeking removal of this condition. The applicant has stated a willingness to record a conservation easement to preserve the 12,656-sf wetland area remaining after the 27,659-sf area(s) are filled under the NJDEP permit.

- C. As to comment 10.H, it is uncontested that a lot consolidation was proposed by the applicant on the original plan. After reviewing that plan and recognizing that relief under §40:55D-35/36 was being sought, this office requested that the consolidated parcel be maintained as a single parcel with a single dwelling unit as shown on that plan. The planning report recommended language that "no further subdivision be proposed and that a deed restriction be created" to enforce this item and to place any future property owner on notice of this restriction. The applicant verbally agreed to this item at the hearing of February 24, 2015. (This office also reviewed the recording of the hearing from that night to verify this item. The discussion begins at the 1:50 mark in the recording.)

First, as a technical matter, the applicant contends that since this item was not clearly stated in the 2015 Resolution of Approval, it cannot be enforced.

Secondly, the applicant contends that, even if it were stated in the Resolution, since the Board's condition was not connected to a subdivision application, the Board could not lawfully impose controls on future subdivisions.

4. Planning Comments

- A. The South River Zoning Board retains jurisdiction over the conditions of the 2014-2015 approval.
- B. The Board should note that the 10.G recommendation for the conservation easement was not merely an easement to prevent filling of the wetlands area, but intended to maintain the area as wooded in perpetuity, that no tree removal be permitted in this area, and that no improvements would be constructed in this area:
 - 1. The applicant should explain what circumstances have changed relative to keeping this area in its natural wooded state?
 - 2. Why does the issuance of an NJDEP wetlands permit necessitate any change to this agreed-upon condition?
 - 3. Why did the applicant pursue a permit to fill wetlands on the site after agreeing to the conservation easement?
- C. Although application #ZB-2014-23 did receive a planning variance under §40:55D-36 to create the particular arrangement of parcels associated with that application, the forthcoming subdivision application proposes an entirely new and different arrangement of lots. If a subdivision is proposed, the developer will need to present testimony to the Planning Board to seek subdivision approval AND relief under §40:55D-36 relative to the newly proposed arrangement of lots proposed by that subdivision, in relative to the ability of emergency services to access these lots under that revised layout.
- D. Given the applicant's pending subdivision application, If the Board considers removal of the two conditions, this office recommends that the Board amend its resolution to contain the following:

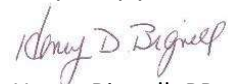
"The approval granted this application under §40:55D-35/36 is applicable to the specific area of land containing former lots 3.01, 4, 5, 6 & 7, (subsequently consolidated into new lot 3.02) as shown on the submitted plot plan revised through: January 7, 2015. Any modifications to the layout of lot(s) or emergency access driveways shown on this plot plan shall require a new or amended development application to the Borough of South River seeking the appropriate land use approval(s)."

5. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Testimony relative to the requested items of relief.
- B. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,



Henry Bignell, PP
For the Firm

HB/TB

cc: All Board & Staff Members

- G. Andre, Owner/Applicant
- File 202/19-16
(See 202/14-21)

Bignell Planning Consultants, Inc.

**424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
PHONE: (732) 636 - 0200
FAX: (732) 218 - 5975
MAIL@BIGNELLPLANNING.COM**

July 10, 2019

Michael Beck, Chairperson
South River Planning Board
5 Theresa Place
South River, NJ 08882

Re: Edward & Laura Andre
Minor Subdivision
Block 143, Lot 3.02 (Lots 3.01, 4, 5, 6, 7)
Block 144.02, Lot 7.01 (Lot 7)
Virginia Street right-of-way (Vacated)
64 Virginia Street
Application # PB-2019-03
2nd Comp., Fee and Planning Review

Dear Sir:

This office has received a minor subdivision plan, (7 sheets) revised through: January 3, 2019, and a minor subdivision plan (1 sheet plat intended for filing), dated: January 2, 2019, a boundary and topographic survey, revised through: June 19, 2018, a freshwater wetlands letter of interpretation, dated: January 23, 2017, a letter from the Middlesex County Planning Board, dated: August 30, 2018, a letter from the Freehold Soil Conservation District, dated: January 31, 2019, a deed (Virginia Street r-o-w transfer), dated: July 25, 2016, a deed of lot consolidation (7 total lots) dated: February 1, 2017, a permit from the NJDEP, dated: March 12, 2019, a letter from the applicants attorney, dated: June 19, 2019, and a development narrative letter from the applicants attorney (3 pages, undated) relative to the above application and offers the following planning comments for your consideration.

1 History off Previous Applications

A. In 2013, the applicant filed PB-2013-10. That application sought P/F Major Subdivision approval to create two (2) new building lots from existing lots 3.01, 4, 5, 6 & 7. No street vacation was proposed at that time. The applicant began testimony to the Planning Board on April 15, 2014; however, the Board asked the applicant to return with a more finalized version of the proposal, including clarification on what would be proposed for the Virginia Street right-of-way. The application never proceeded after that hearing.

- B. In 2014, the applicant filed ZB-2014-23. That application sought relief under §40:55D-36 to permit a building on a lot which does not connect to an improved street. All existing interior lot lines were to be removed and lots 3.01, 4, 5, 6, 7 were to be consolidated into a single parcel. At that time, one (1) dwelling was proposed on the tract on lots 3.01 and 4. No development was proposed on lots 5, 6 or 7. The application proposed construction of an 18'-wide gravel driveway within the Virginia Street right-of-way to connect the dwelling to the Muravski/Virginia intersection. Although it was not shown on the plan, the applicant indicated at the hearing that it would seek to vacate and purchase the Virginia Street right-of-way in the future. That application was approved on February 24, 2015.
- C. In 2018, lots 3.01, 4, 5, 6, 7 were consolidated into new lot 3.02. The Virginia Street right-of-way was vacated and is now known as Block 144.02, Lot 7.01. That parcel is now owned by the applicant. In 2018, the applicant filed the current application seeking Preliminary and Final Major Subdivision approval at this location. After resolving a Resolution question with the South River Zoning Board in July 2019, this application is now ready to be heard by the South River Planning Board as a Minor Subdivision application.

2. Property Description

The original (2014) property consisted of a 67,457-sf tract of land located on the south side of the (former) Virginia Street right-of-way between Albourne Street and Muravski Court. That tract contains five (5) abutting former lots (3.01, 4, 5, 6 & 7). These (5) lots were consolidated into a single parcel and are now known as Block 143, Lot 3.02. The five (5) abutting lots combine to form a trapezoidal tract with 400' of frontage on the Virginia Street right-of-way. The property is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street has never been improved at this location.

Since the 2015 approval was granted, two (2) new parcels have been added to this development application; The vacated former Virginia Street right-of-way abutting this parcel to the north, and a triangular lot on the north side of the old Virginia Street right-of-way, formerly known as Block 144.02, Lot 7. Those two parcels were consolidated into a new single parcel by deed and are shown as Block 144.02, Lot 7.01. The total tract area of all parcels is now 105,201 sf.

3. Proposed Development

The applicant proposes to consolidate and re-subdivide this 105,201-sf tract with a new north-south lot line so as to create two (2) new lots. A west lot (3.03) is proposed and will contain 38,120 sf and a new single-family dwelling. An east lot (3.04) is proposed and will contain 67,081 sf and a new single-family dwelling which will be constructed in the wetlands and wetlands buffer area of that lot. The applicant has received an NJDEP permit to fill a portion of these wetlands. The west lot will have 36 LF of frontage on, but no driveway connection to Albourne Street. The east lot will have a direct driveway connection to Virginia Street. To access the west lot (3.03), vehicles will travel over a proposed driveway 18'-wide gravel driveway on the east lot (3.04) which will connect both proposed lots Virginia Street. The proposed gravel driveway will cross over a wetland area. The plan does not clearly show any cross-access easements or lot lines to be eliminated.

4. Completeness Review

This office recommends that this application be deemed **complete subject to the following:**

- A. The applicant should note this is a minor, not preliminary, and final major subdivision.
- B. The applicant has requested a waiver from providing street trees with this application. This office has no objection to this item as long as the applicant complies with the tree replacement ordinance.

- C. The applicant as requested a waiver from providing a site wide tree inventory and has instead provided a sample tree removal area as the basis for tree replacement calculations. This office has no objection to the use of the sample area; however, additional calculations are required and should not be waived.
- D. All outstanding fees need to be submitted before this application is deemed complete.
- E. Determination of completeness should be subject to the adoption of Zoning Board Resolution ZB-2019-14.

5. Master Plan Review

The 2011 Master Plan recognizes this property as vacant. The Master Plan provides no additional recommendations for this property.

6. Zoning Compliance: R-100 (Single-Family Residential) Zone

D. Use:

Single family dwellings are a permitted use in this zone.

Complies.

E. Bulk:

Required: Minimum lot width of 100'

Proposed: 3.03: 61.5'

3.04: 60.5'

2 Violations.

7. Parking Review (RSIS)

Required: unknown bedrooms: (2.5 spaces)

Provided: 2 driveways

More information required.

8. Landscaping

Required: street trees on 50' centers = TBD trees

Waiver Requested from this item.

Required: Compliance with tree removal and replacement ordinance

Proposed: (Based on 2,500 sf sample area)

Removal of 150 of 329 trees on this property (0.96-acre tree removal area)

More information required. Tree removal/replacement calculations need to be added to the plan-based methods A and B of the formula in the Tree Replacement Ordinance.

9. Land Use Inventory

The following land uses are found in the neighborhood:

North: single-family residential

East: single family residential

South: single-family residential

West: single-family residential

10. Fee Review

A. Bulk Variance: (\$75.00 x 3: number of variances)	\$ 225.00
Minor Subdivision:	\$ 450.00
Total Due:	<u>\$ 675.00</u>
Submitted: (Ck # 1029)	<u>\$ 525.00</u>
Balance Due:	\$ 150.00

B. <u>Escrow Fee:</u>	
Bulk Variance:	\$ 700.00
Minor Subdivision	\$3,000.00
Total Due:	<u>\$3,000.00</u>
Submitted: (Ck # 1030)	<u>\$3,700.00</u>
Balance Due:	\$ 700.00

11. Plan Review Comments

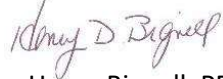
- A. The applicant must document approvals or exemptions from the Middlesex County Planning Board, Freehold Soil Conservation District, and all other agencies having jurisdiction.
- B. The applicant should submit documentation of approval from the NJDEP relative to the proposed wetlands crossing, wetlands removal and all other approvals needed from the NJDEP. Permit numbers should be shown on the plan.
- C. The plan needs to more clearly show lot lines to be eliminated and the location of proposed easement areas. Will the tax assessor allow lot consolidation over the Block line?
- D. This application violates §40:55D-35 which reads, "no permit shall be issued for the erection of any building or structure unless the lot abuts a street giving access to such building or structure..." This application requires relief from the statute under the provisions of §40:55D-36.
- E. The Board may note that application #ZB-2014-23 did receive a variance under §40:55D-36 to create the particular arrangement of parcels proposed with that application, however, this application proposes a new and different arrangement of lots. This application requires new/modified relief under N.J.S.A. §40:55D-35 & 36. The Board can impose conditions on this approval.
- F. The applicant should provide and address the written comments of the Borough emergency officials relative to the adequacy of the proposed driveway to accommodate emergency vehicles for the new lot arrangement.
- G. A condition of approval should prohibit further subdivision on this tract for purposes of creating a third dwelling unit.
- H. A conservation easement should be created for the entire portion of this site where wetlands areas or buffers exist. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. This should be a condition of approval. The applicant agreed to a previous version of this condition in 2015. This easement(s) should be recorded with the Middlesex County within 90 days of any forthcoming Planning Board approval.
- I. The applicant should provide a compliant tree replacement plan. This item should not be waived. This office has no objection to the sample area used for calculation purposes in lieu of a complete tree inventory. All trees not provided on the plan should be provided via a contribution to the Borough Tree Replacement Fund based on the fee listed in the Borough Ordinance. This should be a condition of approval.

12. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Revised plans and documentation addressing the above planning comments to the satisfaction of the Board.
- B. Submission of documentation from any outside agency having jurisdiction.
- C. Testimony relative to the substantial detriment to the public good should the variances be granted.
- D. Testimony relative to the substantial impairment of the promulgated land use policies of the Borough should the variances be granted.
- E. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Henry D. Bignell". The signature is written in a cursive, slightly slanted style.

Henry Bignell, PP
For the Firm

HB/TB

All Board & Staff Members
H. Andre, Owner/Applicant
J. Anderson, Esq. Attorney
File 202/18-16
(See 202/14-21 & 202/19-16)

Bignell Planning Consultants, Inc.

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September 11, 2019

Michael Beck, Chairperson
South River Planning Board
5 Theresa Place
South River, NJ 08882

Re: Edward & Laura Andre
Minor Subdivision
Block 143, Lot 3.02 (Lots 3.01, 4, 5, 6, 7)
Block 144.02, Lot 7.01 (Lot 7)
Virginia Street right-of-way (Vacated)
64 Virginia Street
Application # PB-2019-03
3rd Comp., Fee and Planning Review

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Since the 2015 approval was granted, two (2) new parcels have been added to this development application; The vacated former Virginia Street right-of-way abutting this parcel to the north, and a triangular lot on the north side of the old Virginia Street right-of-way, formerly known as Block 144.02, Lot 7. Those two parcels were consolidated into a new single parcel by deed and are shown as Block 144.02, Lot 7.01. The total tract area of all parcels is now 105,201 sf.

3. Proposed Development

The applicant proposes to consolidate and re-subdivide this 105,201-sf tract with a new north-south lot line so as to create two (2) new lots. A west lot (3.03) is proposed and will contain 38,120 sf and a new single-family dwelling. An east lot (3.04) is proposed and will contain 67,081 sf and a new single-family dwelling which will be constructed in the wetlands and wetlands buffer area of that lot. The applicant has received an NJDEP permit to fill a portion of these wetlands. The west lot will have 36 LF of frontage on, but no driveway connection to Albourne Street. The east lot will have a direct driveway connection to Virginia Street. To access the west lot (3.03), vehicles will travel over a proposed driveway 18'-wide gravel driveway on the east lot (3.04) which will connect both proposed lots Virginia Street. The proposed gravel driveway will cross over a wetland area. The plan does not clearly show any cross-access easements or lot lines to be eliminated.

4. Completeness Review

This office recommends that this application be deemed **complete subject to the following**:

- A. The applicant should note this is a minor, not preliminary, and final major subdivision.
- B. The applicant has requested a waiver from providing street trees with this application. This office has no objection to this item as long as the applicant complies with the tree replacement ordinance.

- C. The applicant as requested a waiver from providing a site wide tree inventory and has instead provided a sample tree removal area as the basis for tree replacement calculations. This office has no objection to the use of the sample area; however, additional calculations are required and should not be waived.
 - D. All outstanding fees need to be submitted before this application is deemed complete.
 - E. Determination of completeness should be subject to the adoption of Zoning Board Resolution ZB-2019-14.
5. Master Plan Review
The 2011 Master Plan recognizes this property as vacant. The Master Plan provides no additional recommendations for this property.
 6. Zoning Compliance: R-100 (Single-Family Residential) Zone
 - F. Use:
Single family dwellings are a permitted use in this zone.
Complies.
 - G. Bulk:
Required: Minimum lot width of 100'
Proposed: 3.03: 61.5'
3.04: 60.5'
2 Violations.
 7. Parking Review (RSIS)
Required: unknown bedrooms: (2.5 spaces)
Provided: 2 driveways
More information required.
 8. Landscaping
Required: street trees on 50' centers = TBD trees
Waiver Requested from this item.

Required: Compliance with tree removal and replacement ordinance
Proposed: (Based on 2,500 sf sample area)
Removal of 150 of 329 trees on this property (0.96-acre tree removal area)
More information required. Tree removal/replacement calculations need to be added to the plan-based methods A and B of the formula in the Tree Replacement Ordinance.
 9. Land Use Inventory
The following land uses are found in the neighborhood:
North: single-family residential
East: single family residential
South: single-family residential
West: single-family residential
 10. Fee Review
 - A. Bulk Variance: (\$75.00 x 3: number of variances) \$ 225.00
Minor Subdivision: \$ 450.00
Total Due: \$ 675.00
Submitted: (Ck # 1029) \$ 525.00
Balance Due: \$ 150.00

B. <u>Escrow Fee:</u>	
Bulk Variance:	\$ 700.00
Minor Subdivision	\$3,000.00
Total Due:	<u>\$3,700.00</u>
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11. Plan Review Comments

- A. The applicant must document approvals or exemptions from the Middlesex County Planning Board, Freehold Soil Conservation District, and all other agencies having jurisdiction.
- B. The applicant should submit documentation of approval from the NJDEP relative to the proposed wetlands crossing, wetlands removal and all other approvals needed from the NJDEP. Permit numbers should be shown on the plan.
- C. The plan needs to more clearly show lot lines to be eliminated and the location of proposed easement areas. Will the tax assessor allow lot consolidation over the Block line?
- D. This application violates §40:55D-35 which reads, "no permit shall be issued for the erection of any building or structure unless the lot abuts a street giving access to such building or structure..." This application requires relief from the statute under the provisions of §40:55D-36.
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- F. The applicant should provide and address the written comments of the Borough emergency officials relative to the adequacy of the proposed driveway to accommodate emergency vehicles for the new lot arrangement.
- G. A condition of approval should prohibit further subdivision on this tract for purposes of creating a third dwelling unit.
- H. A conservation easement should be created for the entire portion of this site where wetlands areas or buffers exist. The language of the restriction should require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted into this area. This should be a condition of approval. The applicant agreed to a previous version of this condition in 2015. This easement(s) should be recorded with the Middlesex County within 90 days of any forthcoming Planning Board approval.
- I. The applicant should provide a compliant tree replacement plan. This item should not be waived. This office has no objection to the sample area used for calculation purposes in lieu of a complete tree inventory. All trees not provided on the plan should be provided via a contribution to the Borough Tree Replacement Fund based on the fee listed in the Borough Ordinance. This should be a condition of approval.
- J. Since a Block Limit line bifurcates this site, the subdivision plan appears to technical show the creation of four (4), not two (2) new parcels. This should be clarified. If this is proposed, a deed restriction should permanently "attach" the parcels across the Block Limit line. This should be shown on the plan and/or via deed documentation.

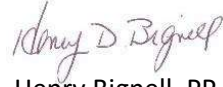
12. Recommendations

From a physical planning perspective, this office recommends that any further action taken on this application be subsequent to the applicant submitting the following:

- A. Revised plans and documentation addressing the above planning comments to the satisfaction of the Board.
- B. Submission of documentation from any outside agency having jurisdiction.

- C. Testimony relative to the substantial detriment to the public good should the variances be granted.
- D. Testimony relative to the substantial impairment of the promulgated land use policies of the Borough should the variances be granted.
- E. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Henry D. Bignell".

Henry Bignell, PP
For the Firm

HB/TB
All Board & Staff Members
Andre, Owner/Applicant
J. Anderson, Esq. Attorney
File 202/18-16
(See 202/14-21 & 202/19-16)

Bignell Planning Consultants, Inc.

**424 AMBOY AVENUE - SUITE 202
WOODBIDGE, NJ 07095
PHONE: (732) 636 - 0200
FAX: (732) 218 - 5975
MAIL@BIGNELLPLANNING.COM**

November 15, 2022

Cynthia Wilk, Chairperson
South River Planning Board
48 Washington Street
South River, NJ 08882

Re: Edward & Laura Andre
Minor Subdivision
Block 143, Lot 3.02 (Lots 3.01, 4, 5, 6, 7)
Block 144.02, Lot 7.01 (Lot 7)
Virginia Street right-of-way (Vacated)
64 Virginia Street
Application # PB-2019-03
Final Resolution Compliance

Dear Chairperson:

This office has received a minor subdivision plan, (7 sheets) revised through: June 18, 2020, a tree preservation plan, (sheet 7 of 9) revised through: December 18, 2020, a landscape plan, (sheet 9 of 9), revised through: December 18, 2020, a minor subdivision plan (1 sheet plat intended for filing), revised through: November 20, 2020, a boundary and topographic survey, revised through: June 19, 2018, a freshwater wetlands letter of interpretation, dated: January 23, 2017, a letter from the Middlesex County Planning Board, dated: August 30, 2018; a letter from the Freehold Soil Conservation District, dated: January 31, 2019, a deed (Virginia Street r-o-w transfer), dated: July 25, 2016, a deed of lot consolidation (7 total lots) dated: February 1, 2017, a freshwater wetlands permit from the NJDEP, dated: March 12, 2019, a draft conservation easement, (undated), a draft subdivision deed (undated), and letters from the applicant's attorney, dated: November 25, 2020 and January 12, 2021 relative to the above application and offers the following planning comments for your consideration.

1. General Comment

- A. The applicant needs to submit documentation showing the final version of conservation and other easements have been properly recorded with Middlesex County. This office defers collection of this item to the Borough Engineer and Construction Official.
- B. The applicant has submitted a copy of check #1012 for \$23,350.00 to the Borough Tree Fund.

2. Plan Revisions

- A. The subdivision plat has been revised to clearly label lot lines to be eliminated on the site.
- B. The plan provides tree removal and replacement calculations showing a total replacement requirement of 537 trees. A credit of 70 trees is provided via the landscaping plan, resulting in an outstanding balance of 476 trees.
- C. The landscape plan has been revised to provide a variety of ornamental grasses, ground cover plantings, and 1" English ivy plug plantings. These plantings do not qualify toward tree replacement.

- D. As calculated on the applicants plan, a total of (537) replacement trees are required. The previous landscaping plan provided 10 (Leland Cypress, 6'-8' high) trees toward replacement. The revised (current) plan provides 60 additional evergreen trees (Eastern Red Cedar, 6'-8' high). The plant list has been revised to show a minimum 6'-8' high planting height for these trees, resulting in credit of 70 trees and a deficit of 467 trees.
- E. The applicant needs to address the outstanding tree replacement fee with the Borough Council. This office defers to the Borough Council as to the final resolution of this matter. Neither this office nor the Planning Board has the authority to grant a waiver of any fee.

3. Resolution Compliance

This application was approved by the Board's Resolution of October 15, 2019. **The submitted plans and documentation substantially comply with the planning items found in that resolution.**

4. Fee Review

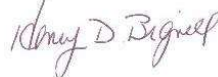
Defer to Board Secretary

5. Recommendations

From a physical planning perspective, this office recommends that any action taken on this application be subsequent to the applicant submitting the following:

- A. Payment of any outstanding taxes, application and/or escrow fees.

Very truly yours,



Henry Bignell, PP
For the Firm

HB/TB

All Board & Staff Members
E. Andre, Owner/Applicant
J. Anderson, Esq. Attorney
File 202/18-16 (See 202/14-21 & 202/19-16)

**MEMORIALIZING RESOLUTION
FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT**

**ZB 2014-23
EDWARD ANDRE**

WHEREAS, Edward Andre, hereinafter referred to as the Applicant, has applied to the Zoning Board of Adjustment of South River for permission to build a house on a lot not abutting a street on the premises known as Block 143, Lots 3.01, 4, 5, 6 & 7, South River, New Jersey; and

WHEREAS, the Applicant has complied with all jurisdictional requirements necessary to prosecute the within application; and

WHEREAS, public hearings were held by the Zoning Board culminating on February 24, 2015, and

WHEREAS, the Board has made the following findings of fact:

1. Applicant Edward Andre, has filed an application for permission to build a house on property that does not abut a street on the premises known as Block 143, Lots 3.01, 4, 5, 6, & 7 in South River, New Jersey.
2. Adequate notice was provided and the Board has jurisdiction to hear this application.
3. The Applicant is seeking relief under N.J.S.A. 40:55D-36.
4. The Applicant has demonstrated that the house to be built has sufficient access for firefighting equipment, ambulance and other emergency vehicles necessary for the protection of health and safety, as required by N.J.S.A. 40:55D-36.

5. The Zoning Board only reviewed this Application under the auspices of N.J.S.A. 40:55D-36; the Zoning Board has not considered whether the proposed plan conforms with the zoning requirements in South River.

6. There was no opposition from any members of the public to the relief requested in this Application

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicant Edward Andre for permission to build on a lot not abutting a street pursuant to N.J.S.A. 40:55D-36 is hereby **GRANTED** in accordance with the findings of fact and conclusions of law rendered above.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this approval be and is conditioned upon the following:

1. Applicant shall pay to the appropriate Borough officials all review fees and escrow funds certified to be due by the Board secretary to compensate for review of Applicant's plans as well as professional services. No building permits or certificates of occupancy shall be issued nor final plans signed by Borough officials until all such fees and escrow funds have been received and notice of same filed with the appropriate code official of the Borough.
2. Applicant shall obtain all required inspections, permits and approvals.
3. Applicant shall obtain all outside agency approvals required for the proposed development.
4. Applicant shall keep the driveway clear of snow at all times to ensure that

firefighting equipment and other emergency vehicles have adequate access to the property

5. Applicant shall supply a tree removal/replacement plan prior to any site work commencing at this location.

6. Applicant shall provide for the consolidation of the lots via a Deed of Consolidation once the Applicant has completed the purchase of the property.

7. Applicant shall provide a Conservation Easement for the eastern portion of the site covering the wetlands areas and buffers; the language of the Conservation Easement shall be reviewed and approved by the Zoning Board attorney...

BE IT FURTHER RESOLVED that a copy of the within Resolution certified by the Secretary of the Borough of South River Zoning Board of Adjustment be a true copy shall be afforded to the Applicant herein, the Zoning Officer of the Borough of South River, and to the Clerk of the Borough of South River, who is hereby directed to cause same to be published in an official newspaper in the Borough of South River within ten (10) days from the date hereof.

ZB 2014-23

The foregoing Resolution was:

Moved by: Mr. Bodak

Seconded by: Mr. Clancy

File # 19-03 EDWARD & LAURA ANDRE
Block 143, Lot 3.02 (f/k/a Lots 3.01,4,5,6,7), and
Block 144.02, Lot 7.01 (f/k/a Lot 7);
64 Virginia Street and Seppi Avenue (inclusive of vacated right-of-way)
(Vacated) Minor Subdivision

RESOLUTION *2019-08*

BOROUGH OF SOUTH RIVER PLANNING BOARD

Be it resolved by the Borough of South River Planning Board that:

WHEREAS, Edward and Laura Andre, the Applicants, have applied to the Borough of South River Planning Board for a Minor Subdivision for Block 143, Lot 3.02 (f/k/a Lots 3.01, 4, 5,6,7), and Block 144.02, Lot 7.01 (f/k/a Lot 7); and

WHEREAS, the Applicants have complied with the jurisdictional requirements necessary to prosecute the application; and

WHEREAS, after reviewing the Application and the representations of the Applicant and its expert at meetings held on September 17, 2019, the Borough of South River Planning Board has made the following findings:

1. The Applicant is represented by John B. Anderson, III, Esq. of Foss, San Filippo & Milne, LLC.
2. The property is known as Block 143, Lot 3.02 (f/k/a Lots 3.01, 4, 5,6,7), and Block 144.02, Lot 7.01 (f/k/a Lot 7), on the Borough of South River Tax Map and it is located at the terminus of Virginia Street and particularly on the vacated Virginia Street right-of-way, between Albourne Street and Muravski Court in the Borough of South River.
3. In 2013, the Applicant filed PB-2013-10. That application sought Preliminary and Final Major Subdivision approval to create two (2) new building lots from existing Block 143, Lots 3.01, 4,5, 6 & 7. No street vacation was proposed at that time. The Applicant began testimony before the Planning Board on April 15, 2014; however, the Board asked the Applicant to return with a more finalized version of the proposal, including clarification on what would be proposed for the Virginia Street right-of-way. The application never proceeded after that hearing.

4. In 2014, the Applicant filed ZB-2014-23. That application sought relief under §40:55D-36 to permit a building on a lot which does not connect to an improved street. All existing interior lot lines were to be removed and Block 143, Lots 3.01, 4, 5, 6, 7 were to be consolidated into a single parcel. At that time, one (1) dwelling was proposed on the tract on Lots 3.01 and 4. No development was proposed on Lots 5, 6 or 7. The application proposed construction of an 18'-wide gravel driveway within the Virginia Street right-of-way to connect the dwelling to the Muravski/Virginia intersection. Although it was not shown on the plan, the Applicant indicated at the hearing that it would seek to vacate and purchase the Virginia Street right-of-way in the future. That application was approved on February 24, 2015.

5. In 2016, Lots 3.01, 4, 5, 6, 7 were consolidated into new Lot 3.02. The Virginia Street right-of-way was vacated and is now known as Block 144.02, Lot 7.01. Though Applicant recorded a deed of lot consolidation, the single parcel remains designated as two (2) separate lots because the single parcel straddles a block limit. The single parcel is now owned by the Applicant. In 2018, the Applicant filed the current application seeking Minor Subdivision approval at this location. After excising conditions of approval previously imposed by the South River Zoning Board in July 2019, this application is now ready to be heard by the South River Planning Board as a two (2) lot Minor Subdivision application with variances for lot width and a lot not abutting an improved public street.

6. The original (2014) property consisted of a 67,457-sf tract of land located on the south side of the (former) Virginia Street right-of-way between Albourne Street and Muravski Court. That tract contained five (5) abutting former Lots (3.01, 4, 5, 6 & 7). These (5) lots were consolidated into a single parcel and are now known as Block 143, Lot 3.02. The five (5) abutting lots combine to form a trapezoidal tract with 400' of frontage on the former Virginia Street right-of-way. The property is mostly wooded with mature trees and contains verified wetlands on the eastern portion of the site. The site slopes downward to the east. Virginia Street has never been improved at this location.

7. Since the 2015 approval was granted, two (2) new parcels have been added to this development application; The vacated former Virginia Street right-of-way abutting this parcel to the north, and a triangular lot on the north side of the old Virginia Street right-of-way, formerly known as Block 144.02, Lot 7. Those two parcels were consolidated into a new single parcel by deed and are shown as Block 144.02, Lot 7.01. The total tract area of all parcels is now 105,201 sf.

12. John Buletza, P.E., P.P., whose office is located at 1750 Bloomsbury Avenue, Ocean, New Jersey, was sworn in on behalf of the Applicant. His credentials as a Professional Engineer and Planner were recognized by the Board.

13. Mr. Buletza went over the proposed plan with the Board utilizing A-8, A-9 and A-10. He testified that there is a 15-foot slope change as the property goes from west to east. He further testified that there is essentially already a permanent conservation easement tracking the recorded GP-6 and GP-6a as more particularly set forth in Exhibit A-6.

14. Mr. Buletza testified that there will be a common 18-foot driveway as per prior request of the Borough's Emergency Services Professionals.

15. Mr. Buletza testified that both proposed single-family homes will be serviced by municipal water and sewer 1" in diameter or 1.5" if the calculation requires same. He further testified that there will be a 4" sewer lateral connecting onto the Virginia Street connection.

16. Mr. Buletza testified as to the bulk variances that were needed. He explained to the Board that the variances for lot width were needed based upon South River's ordinance which calculates lot width at the front setback. As a result of the unique shape of the property, there was no way to conform to the lot width requirement.

17. He testified as to the tree calculations and the Applicant agreed to comply with the Borough's Tree Ordinance.

18. Mr. Buletza testified that no sidewalks were proposed. There will be a retaining wall and where it is more than 6 feet high, the retaining wall will be terraced. Furthermore, there will be a safety fence on top of the retaining wall. He testified that the retaining wall is on the edge of the conservation easement.

19. Mr. Buletza testified that the homes will be constructed 1 foot above the seasonal high-water table.

20. Edward Andre was sworn in. He testified that he is the owner of the property.

21. Mr. Andre and Mr. Buletza both testified as to the need of the proposed driveway not connecting to a residential street and the need for a waiver for same.

1. The Applicant must document approvals or exemption from the Middlesex County Planning Board, Freehold Soil Conservation District and all other outside agencies having jurisdiction.

2. The Applicant shall submit documentation of approval from the NJDEP relative to the proposed wetlands crossing, wetlands removal and all other approvals needed from the NJDEP including those set forth in the recorded GP-6 and GP-6a permits. The permit numbers shall be shown on the plan.

3. The Applicant will amend their plans to delineate the proposed easement areas consistent with the recorded GP6 and GP-6a. In addition, the Applicant will abide by the recommendations of the tax assessor as to whether or not a consolidation over the Block line will be allowed. The tax assessor's determination will be memorialized in any deeds that are filed.

4. The Board granted a planning exception/variance from the requirements that both lots front and be accessible directly from a public street pursuant to N.J.S.A. 40:55D-51. To eliminate any doubt as to whether Applicant secured full relief, the Board also found that Applicant satisfied the provisions of N.J.S.A. 40:55D-35/36 and granted the Applicant's request for relief from the requirements of N.J.S.A. 40:55D-35/36.

5. The Applicant will obtain additional written comments from the Borough's emergency officials relative to the adequacy of the proposed 18' wide driveway and proposed turning template and comply with any recommendations.

6. The Applicant agreed as condition of approval that it will not seek any further subdivisions of the tract for purposes of creating a third buildable lot. The Applicant, its successors, assigns and/or designees reserves the right to seek a subdivision of an incidental portion of the property for purposes of selling a portion of the property to an adjacent landowner for incorporation into said landowner's lot.

7. The Applicant agreed to a conservation easement consistent with the recorded GP-6 and GP-6a permits. The language of the restriction shall require this area to be maintained as a wooded area in perpetuity, that no tree removal be permitted in this area, and that no improvements of any kind be permitted in this area. This easement shall be recorded with Middlesex County.

8. The Applicant agreed to provide a compliant tree replacement plan. The Applicant may do this by way of a sample area used for calculation purposes in lieu of a complete tree inventory. All trees not provided on the plan shall be provided via a contribution to the Borough Tree Replacement Fund based on the fees listed in the Borough Ordinance.

9. Since a Block Limit line bifurcates this site, the subdivision plan appears to technically show the creation of four (4), not two (2) new parcels. This will be clarified with the tax assessor. If the tax assessor will allow lot consolidation across the block line, no further action will be required. If not, a deed restriction should permanently attach the parcels clarifying that portions of the two (2) lots which cross the Block Limit line shall not be conveyed separate from one another except to the extent that the Applicant, its successors, assigns and/or designees seeks to subdivide incidental portions of the property for attachment to adjacent lots. This shall be shown on the plan and/or via deed documentation.

10. The Board granted the Applicant a waiver for curbing along with the edges of the proposed 18' driveway. A recorded easement shall be created to allow ingress and egress across proposed Lot 3.04 to serve proposed Lot 3.03.

11. The title sheet shall be revised to include the various NJDEP freshwater permits and the list of required approvals.

12. Additional dimensions shall be provided for the proposed vehicle turnaround area at the upper end of the proposed driveways. In addition, the Applicant's engineer shall further review the proposed turnaround areas to verify that there is adequate storage space for garbage, recycling, delivery, and emergency vehicles to perform turnaround maneuvers. To the extent Applicant desires, the Applicant handle garbage, recycling and/or deliveries by having the same performed at the Virginia Street dead end with appropriate facilities for package drop off and refuse and recycling storage. A vehicle turning path plan shall be provided in order to verify the aforementioned requirements.

13. The basement floor elevation of the dwellings shall be located at least one (1) ft. above the elevation of the seasonal high water table.

14. A profile and a cross section of the proposed access driveway shall be provided.

15. The Applicant's engineer shall review the need for swales along the sides of the proposed driveway and/or a culvert at the low point of the driveway to convey storm-water from upstream areas to the downstream side of the access road without overland runoff over the road surface. This information will be provided to the Planning Board's Engineer for his review and approval.

16. The Applicant agreed to a safety railing or fence along the top of the proposed retaining wall and shall provide a construction detail of same.

17. The Applicant shall provide a drainage report that analyzes the increase in storm-water runoff due to the proposed development and propose measures to mitigate same to the satisfaction of the Borough engineer.

18. The Applicant agreed that each home will be serviced by a minimum 1" copper service. The Applicant's engineer shall verify the distance between the proposed dwellings and the nearest fire hydrants. Input from the various Borough Fire Officials shall be solicited with regards to same. The plans shall show the existing water main in Albourne Street. A detail of the connection to Virginia Street shall be provided.

19. The Applicant agreed that each home will be serviced by a separate lateral parallel with any utility easements.

20. The Applicant has agreed to construct separate sanitary sewer laterals for each dwelling. The Applicant or successor in title is responsible for the maintenance and/or repair of their respective sanitary sewer lateral. Similar to the driveway issue, an easement shall be provided across Proposed Lot 3.04 for Proposed Lot 3.03 for their sanitary sewer lateral.

21. The Applicant's engineer shall provide domestic water supply and sewer demand calculations for the proposed dwelling units based on NJDEP and RSIS flow criteria. The calculations shall verify the flow capacities of the proposed water services and the capacity and velocity of the proposed sanitary lateral to the satisfaction of the Board's Engineer.

22. The Applicant's engineer shall provide needed fire flow (NFF) calculations for the proposed dwelling units. The NFF calculations shall conform to the Insurance Services Office (ISO) method. Current hydrant flow test data shall be submitted in order to verify that adequate flow and residual pressure is available to meet domestic and fire flow demand to the satisfaction of the Board's Engineer.

30. The Applicant agreed that the opening on Albourne Street with curb returns will be analyzed in order to address water runoff and will work with the Borough engineer to ascertain if the curb return should be closed.

31. The Applicant will abide by all conditions and stipulations agreed to at the Public Hearing, including all those set forth in the Borough Planner's and Engineer's reports except (except as otherwise modified on the record).

The Motion was carried unanimously by a vote of (9) nine to (0) zero.

CERTIFICATION

I hereby certify that the foregoing is a true copy of a resolution adopted by the Planning Board of the Borough of South River at its regular meeting on 10/15/19.

Borough of South River Planning Board

Diane M. Marlowe, P.E., C.M.E., Q.P.A.
~~Diane Nale~~, Secretary
Borough of South River Planning Board

This Resolution was voted on as follows:

ROLL CALL

IN FAVOR OF APPROVAL:

Richard Byrne, Shirley Dockery, Victor Gil, Peter Guindi, Donna Farren, James Jones, Cynthia Urbanik, Cynthia Wilk and Michael Beck.

OPPOSED TO APPROVAL:

None

ABSTAINING:

None.

**MEMORIALIZING RESOLUTION
FOR
SOUTH RIVER ZONING BOARD OF ADJUSTMENT**

EDWARD & LAURA ANDRE
64 VIRGINIA STREET – BLOCK 143 LOT 3.02 BLOCK 144.02 LOT 7

WHEREAS, Edward & Laura Andre, hereinafter referred to as the Applicants, have applied to the Zoning Board of Adjustment of South River for an interpretation and relief from the conditions imposed on the land in Resolution ZB 2014-23 on the premises known as Block 143, Lot 3.02 and Block 144.02, Lot 7 otherwise known as 64 Virginia Avenue and Seppi Avenue, South River, New Jersey; and

WHEREAS, the Applicant has complied with all jurisdictional requirements necessary to prosecute the within application; and

WHEREAS, a public hearing was held by the Zoning Board on July 30, 2019, and

WHEREAS, the Board has made the following findings of fact:

1. Applicants Edward & Laura Andre previously received approval from the South River Zoning Board to build a house on a lot not fronting a public street pursuant to N.J.S.A. 40:55D-35/36 in Resolution ZB 2014-23.

2. Subsequently, the Applicants acquired adjacent property, bringing the size of the lot from approximately 67,457 s.f. to approximately 105,201 s.f..

3. The original approval contained a condition barring any future subdivision; the Applicant now seeks relief from that condition.

4. The Applicant contends that this relief is merited for two reasons: 1) the Zoning Board had no authority to impose a condition barring a future subdivision, and 2) since that approval, circumstances have changed that allow the subdivision prohibition to be excised.

5. The Zoning Board agrees with the Applicants that the circumstances have changed. During the original hearing in 2014, the Board had concerns about access to the property and the ability of emergency services vehicles to reach the property. Due to the Applicants' purchase of the adjoining parcels, the access concerns have become moot.

6. Since those concerns are no longer applicable, the reason for the subdivision prohibition no longer exists and can be excised.

7. Additionally, since the Applicant has increased the size of the lot by 37,744 s.f. and secured NJDEP approval to make more productive use of the larger lot by lawfully filling 9,559 s.f. of isolated wetlands of no exceptional resource value and filling an additional 18,100 s.f. of associated transition areas pursuant to an LOI and GP 6 and GP 6A permits, the larger and less restricted lot has changed to become more amenable to subdivision.

8. At the time of the original approval, there was also a requirement for a conservation easement. Subsequent to the original approval, the NJDEP issued a Letter of Interpretation and General Permit 6 & 6A allowing the Applicant to fill isolated ordinary and intermediate resource value wetlands and associated transition areas; this has changed the location/size of the wetlands and resulting conservation easement.

9. Since the NJDEP has exclusive jurisdiction and final authority regarding this issue, the Zoning Board grants the Applicants' request to modify the original Conservation easement to be consistent with the NJDEP determination memorialized in the GP 6 and GP 6 A.

RESOLUTION: 2019-17

APPLICATION: ZB2019-14

10. The Zoning Board finds that the relief requested by the Applicants can be granted; however the Zoning Board recognizes that the original relief granted by the Zoning Board under N.J.S.A. 40:55D-35/36 remains valid; only the conditions attached to the original approval are modified/excised.

NOW, THEREFORE BE IT RESOLVED by the South River Board of Adjustment that the Application of Applicants Edward & Laura Andre as described above is hereby **GRANTED** in accordance with the findings of fact and conclusions of law rendered above.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this approval be and is conditioned upon the following:

1. Applicant shall pay to the appropriate Borough officials all review fees and escrow funds certified to be due by the Board secretary to compensate for review of Applicant's plans as well as professional services. No building permits or certificates of occupancy shall be issued nor final plans signed by Borough officials until all such fees and escrow funds have been received and notice of same filed with the appropriate code official of the Borough.

2. Applicant shall obtain all required inspections, permits and approvals as required by the Borough of South River.

BE IT FURTHER RESOLVED that a copy of the within Resolution certified by the Secretary of the Borough of South River Zoning Board of Adjustment be a true copy shall be afforded to the Applicant herein, the Zoning Officer of the Borough of South River, and to the Clerk of the Borough of South River, who is hereby directed to cause same to be published in an official newspaper in the Borough of South River within ten (10) days from the date hereof.

RESOLUTION: 2019-17

APPLICATION: ZB2019-14

ZB 2019-14

The foregoing Resolution was:

Moved by: Mr. Giannakopoulos

Seconded by: Mr. Clancy

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Rui Almeida	X			
Mr. Robert Bodak	X			
Mr. Michael Clancy	X			
Mr. Frank DeMonico				X
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady	X			
Mr. Edward Trygar	X			
ALTERNATES				
Mr. Ruell Brown	X			
Mr. John Frost	X			

ZB2019-14

The foregoing Resolution was:

Moved by: Mr. Clancy

Seconded by: Mr. Giannakopoulos

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Mr. Rui Almeida				X
Mr. Robert Bodak				X
Mr. Michael Clancy	X			
Mr. Frank DeMonico			X	
Mr. Nick Giannakopoulos	X			
Mr. Jeremiah O'Grady				X
Mr. Edward Trygar	X			
ALTERNATES				
Mr. Ruell Brown				X
Mr. John Frost				X

RESOLUTION: 2019-17

APPLICATION: ZB2019-14

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED AT THE BOROUGH OF SOUTH RIVER ZONING BOARD OF ADJUSTMENT AT MEETING HELD ON AUGUST 27, 2019.



TAMAR LAWFUL, SECRETARY