

PLANNING BOARD OF THE CITY OF HACKENSACK

RESOLUTION OF APPROVAL

IN RE THE APPLICATION OF
PROPERTY OBSERVER, LLC
FOR SUBDIVISION APPROVAL
308 ANDERSON STREET, BLOCK 442, LOT 23
SUB #12-22 AND V #12-22

WHEREAS, Property Observers, LLC (the “Applicant”) has applied to the Planning Board of the City of Hackensack (the “Board”) for subdivision approval to subdivide Lot 23 to create two (2) distinct lots, to be known as lots 23.01 and 23.02. The Applicant does not propose any site improvements in either proposed lot 23.01 or lot 23.02 at this time. Lot 23.01 and 23.02 respectively would each consist of approximately 6,000 square feet.

WHEREAS, the aforesaid application was duly made to the Planning Board of the City of Hackensack, notice of the application was duly published and made pursuant to the requirements of N.J.S.A. 40:55D-12, and the requirements of the City of Hackensack Code; and

WHEREAS, the Planning Board of the City of Hackensack held a public hearing on October 12, 2022, at which time it heard testimony and considered the subject application; and

WHEREAS, the Applicant was represented by Stephen P. Sinisi, Esq., of the law firm of Stephen P. Sinisi, Esq. LLP.; and

WHEREAS, the Applicant presented the testimony of William B. Page, P.E., P.P., of Page Consultants, in support of the application; and

WHEREAS, the following were presented to the Board for review:

- Zoning Permit Application consisting of the following forms:
 - Form ‘B’ – Site Plan Checklist;
 - Form ‘D’ – Site Plan / Subdivision / Variance Application (signed);
 - Form ‘I’ – Zoning Permit Application (signed);
 - Form ‘I’ – Support Documents dated March 24, 2022;
 - Form ‘L’ – Land Use Application Fees (complete);
 - Form ‘M’ – Escrow Fee Structure (complete);
- Signed Certification of Ownership of Applicant dated July 15, 2021;
- Signed Certification of taxes dated January 21, 2021
- 200-foot property owner list;
- Tax Identification number dated April 4, 2022

- Signed and sealed subdivision plan consisting of two (2) sheets, entitled, “Proposed minor subdivision, 308 Anderson Street, Block 442, Lot 23, Hackensack, Bergen County, New Jersey” prepared by William B. Page, P.E., P.L.S., of Page Consultants, Ind., dated March 24, 2022, last revised May 31, 2022;
- Survey consisting of one (1) sheet entitled “Consolidation Plan” prepared by William B. Page, P.E., P.L.S., of Page Consultants, dated October 4, 2019;
- City of Hackensack Fire Department Checklist Plan Review dated June 7, 2022;
- Cover letter from William Page, P.E., P.P., L.S., C.M.E., dated May 26, 2022, in response to Neglia Engineering’s’ Review Letter dated May 6, 2022;
- City of Hackensack Zoning Board of Adjustment’s Resolution of Memorialization as to Official Action Denying Variance Approval for 308 Anderson Street/309 Lookout Avenue, dated February 17, 2022;
- Completeness/Planning & Engineering & Subdivision Review Memorandum from Gregory J. Polyniak, P.E., P.P., C.M.E., C.P.W.M. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated May 6, 2022, revised June 14, 2022; and

WHEREAS, the Board reviewed the aforesaid plans, and heard and considered the presentation made on behalf of the Applicant at the time of the public hearing; and

WHEREAS, the Planning Board of the City of Hackensack makes the following findings of fact and conclusions with respect to the within application:

1. The subject property is located within Block 442, Lot 23, and is commonly known as 308 Anderson Street. The tract is a corner lot with frontage on Anderson Street. The site is currently a vacant lot with no improvements. The property has an area of approximately 12,000 square feet (0.28 acres).
2. The Applicant proposes to subdivide Lot 23 to create two (2) distinct lots, labeled as lots 23.01 and 23.02. The Applicant does not propose any site improvements within either proposed lot 23.01 or proposed lot 23.02.
3. As per §175-7.3 insert 4 of the City of Hackensack, Zoning Ordinance:
“Minimum Lot Width (both proposed Lots 23.01 and 23.02), Required: 50 Feet;
Proposed: 48 Feet”

Therefore, a minimum lot width variance is requested for both proposed lots, as the proposed subdivision line measures 48 feet, two feet less than the required 50 feet.

4. The applicant presented the testimony of William Page, P.E., P.P., a licensed Engineer and Planner in the State of New Jersey. Mr. Page testified that the subject property is located in the R-2B Zone, consisting of one to two family houses. The subdivision would create two (2) lots both 6,000 square feet in size, both lots are significantly over the minimum lot area requirements of (5,000 sq. ft.), however, the two lots would be 48 feet in width, requiring a

variance for the minimum width of each lot. The proposed subdivision and required variance is consistent with the immediate neighborhood, and there would be no substantial detriment to the zone plan and Master Plan of the City, as the decrease in lot width is de minimis.

5. The Board finds that the Applicant has adduced testimony that the proposed subdivision can be granted so as to enable the property to be used in substantial conformity with all zoning requirements, and in conformity with the existing development of the neighborhood. The Board finds that minimum width deficiency on the lots would not be exacerbated or negatively impact the zone or Master Plan in any way.

6. The Board finds that N.J.S.A. 40:55D-70(c)(2) of the MLUL allows variances to be granted “where an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment”. The Board finds that the negative criteria of N.J.S.A. 40:55D-70(c) require applicants to show that the requested variances will not be substantially detrimental to the public good nor will they substantially impair the intent and purposes of the zone plan and zoning ordinance.

7. Based upon the testimony and proofs presented by the applicant’s witness, the Board finds that the applicant has met both the affirmative criteria for the granting of the requested variances under N.J.S.A. 40:55D-70(c)(2), and the negative criteria for the granting of the requested variances of N.J.S.A. 40:55D-70(c).

8. The Board finds that the applicant has demonstrated that the purpose of the Municipal Land Use Law would be advanced by the granting of the application in that it would allow the property to continue to be used in compliance with the zoning code and the Master Plan of the City of Hackensack. The Board finds that adequate light, air and open space are being preserved and that this promotes the public health, safety and general welfare. The Board finds that these benefits are substantial and there would be no substantial detriments to the granting of the requested variances. The Board further finds that the applicant has provided satisfactory proof that the requested variances can be granted without causing any substantial detriment to the public good or to the neighboring properties, and without substantially impairing the zoning ordinance or the Master Plan of the City of Hackensack.

NOW, THEREFORE, BE IT RESOLVED that the application for minor subdivision approval to subdivide Lot 23 to create two (2) distinct lots (labeled as lots 23.01 and 23.02), along with the requested variances as set forth herein (i.e. lot width), be and hereby are GRANTED; and

BE IT FURTHER RESOLVED, that the granting of the within approval is conditioned upon the application complying with all comment letters and directives of the Board Engineer; and

BE IT FURTHER RESOLVED, that the granting of the within approval is specifically made subject to the following additional conditions:

- A. The Applicant shall comply with the recommendations and requirements as set forth in the Completeness/Planning & Engineering & Subdivision Review Memorandum from Gregory J. Polyniak, P.E., P.P., C.M.E., C.P.W.M. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated May 6, 2022, revised June 14, 2022.
- B. The Applicant shall submit an original, with sufficient copies, of the minor subdivision plan for review and approval by the Board Engineer and Attorney, as to form and content.
- C. The Applicant shall confirm with the City of Hackensack Tax Assessor that the proposed lot numbers conform to the applicable standards and regulations
- D. The subdivision shall be perfected by way of deed. The Applicant shall submit for review and approval by the Board Attorney, the Board Engineer, with a reduced copy of the approved minor subdivision plat and this Resolution attached thereto.
- E. In accordance with N.J.S.A. 40:55D-47 d, the Applicant shall, within 190 days after the adoption of this resolution by the Board, file with the County Clerk's Office, the Board Engineer and the municipal tax assessor either a plat in conformity with the approval granted herein and the "Map Filing Law", or a deed clearly describing the approved subdivision.
- F. Within thirty (30) days of the recording of the deed or map, the Applicant shall submit to the Planning Board and the Building Department a copy of the recorded deed or map.
- G. The Applicant shall pay such fee as may be required by City ordinance for the cost of modifying the official tax map and records of the City to re-designate the lots created by the within subdivision.
- H. The Applicant shall comply with any stipulations made by, or on behalf of, the applicant by the applicant's expert and authorized representative at the public hearing on October 12, 2022. Specifically, this subdivision is subject to the following conditions:
- i. Applicant shall only construct a one- or two-family dwelling on each of the subdivided lots;
 - ii. Applicant shall not seek any further land use approvals for any bulk or use variances, other than a building permit for a conforming one (1) or two (2) family residential use on each respective lot;
 - iii. Applicant shall comply with the City of Hackensack Fire Department letter dated June 7, 2022;
 - iv. At the time the Applicant applies to the Building Department for a residential dwelling building permit, it shall, without exception, comply with the permitted use schedules in the R-2B zone;
 - v. Applicant, its successors, or assignees, stipulate that as a condition to approval, it has consented that it shall not petition nor will the Applicant be granted any further Zoning Variances from the current Zoning Ordinance;

I. The Applicant shall provide an as-built survey to the Construction Code Official, the Board Engineer, and the City Tax Assessor prior to the request for a construction completion certificate.

J. The Applicant shall provide the Zoning Officer with a copy of the approved plans digitally via e-mail.

K. This Resolution shall be recorded with the Deed at the Bergen County Clerk's Office for the subdivided lots, all conditions and stipulations stated herein shall bind the applicant and its successors and/or assignees as their interests may appear and run with the land.

BE IT FURTHER RESOLVED, that the Subdivision approval, and variance relieve granted herein is specifically made and expressing subject to any conditions referenced herein. In the event a Court of competent jurisdiction rules that any Resolution Condition is invalid, unenforceable, or unlawful, the entire subdivision approval granted herein shall be void ab inito, and the two lots shall merge by operation of law, and the subdivision approved will have no force or effect.

Motion to Approve:

Offered by: A. Dib

Second by: K. Solomon

In Favor:

A. Dib

M. Allegretta

K. Solomon

R. Conti

F. Garip

Opposed:

J. Labrosse

K. Canestrino

I certify that the foregoing is a true copy of a Resolution adopted by the Planning Board of the city of Hackensack at the meeting of Dec, 14, 2022.



FERNANDO GARIP, CHAIRMAN