

PB 2200
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PLANNING BOARD

Case # PB 22-02

WARREN TOWNSHIP PLANNING BOARD
APPLICATION FOR PRELIMINARY MAJOR SUBDIVISION

SITE NAME 17 OLD CHURCH ROAD AND 34 HELEN STREET

APPLICATION is hereby made for Preliminary X Amended _____ approval of a major subdivision to be located in the _____ zone(s).

1. Applicant's Name 17 Old Church Road LLC Phone (201) 965-8705
Fax: (908) 766-7809 (counsel) Street Address 1140 Globe Avenue
Town, State, Zip: Mountainside, NJ 07092

2. Owner's Name Please see Addendum Phone _____
Fax: _____ Street Address: _____
Town, State, Zip: _____

3. Attorney's Name Frederick B. Zelle Phone (908) 766-6666 Fax: (908) 766-7809
Firm and Address Bisogno, Loeffler & Zelle, P.O. Box 408, Basking Ridge, New Jersey 07920

4. Name of Person Preparing Plans PE Phone (732) 805-3979 Fax: (732) 805-3978
Profession _____
Name Catherine Mueller Firm Page-Mueller Engineering Consultants, PC
Address: P.O. Box 4619, Warren, New Jersey 07059
STREET, CITY, STATE, ZIP CODE

5. Location of Subdivision 17 Old Church Road and 34 Helen Street
STREET
96 18, 19.07 and 20.01 21.485 6
TAX MAP BLOCK LOT NO(S) TOTAL AREA ACREAGE NUMBER OF PROPOSED LOTS

6. List any zoning variances required and if so, in addition, attach hereto as a separate rider your factual basis and legal theory for the relief sought.
None

7. Deed Restrictions that apply or are contemplated. (If no restrictions, state "NONE", if "YES" Attach copy.) Please see Addendum

8. Development Plans _____
a. Sell Lots Only? Possibly Construction of Homes for sale? (yes or no) Yes
b. Other _____

9. Briefly describe any prior or presently pending proceedings before the Warren Township Planning Board or any other federal, state, or local board or agency involving the property which is the subject of this application.

Please see Addendum

10. List any other material accompanying this application, i.e. plans, drainage calculations, etc.

Please see cover letter of Applicant's counsel

17 OLD CHURCH ROAD LLC

[Signature]
Applicant' Signature

2-14-2022
Date

By: Gerard L. Burdi, Managing Member

CONSENT OF OWNER IF OTHER THAN APPLICANT

I, the undersigned, being the owner of the lot or tract described in the foregoing application, hereby consent to the making of this application and the approval of the plans submitted herewith.

Date 2-14-2022

[Signature]
Owner 17 Old Church Road LLC by: Gerard L. Burdi, M.M.

WITNESS [Signature] 2/14/2022
Date

[Signature]
Owner Old Church Road Assoc. LLC by: Gerard L. Burdi, M.M.
[Signature]
Owner Paul F. Stillwaggon and Joan Stillwaggon

ADDENDUM

Warren Township Planning Board

Application of 17 Old Church Road LLC

17 Old Church Road and 34 Helen Street
Block 96, Lots 18, 19.07 and 20.01
CR-130/65 and R-65 Zones

PB 22-02
~~BA 22-03~~
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~~BOARD OF ADJUSTMENT~~
PLANNING
BOARD

This is an application for preliminary major subdivision approval for the subdivision of three (3) existing single family residential lots in Block 96 (Lots 18, 19.07 and 20.01) into six (6) new single family residential lots. One of the proposed lots (proposed Lot 18.01) will continue to host the single family residence and other improvements that presently exist on Lot 18.

Ownership of Subject Lots

Lot 18 (a/k/a 34 Helen Street) is owned by Paul F. and Joan Stillwaggon, 34 Helen Street, Warren, New Jersey 07059.

Lot 19.07 is owned by the Applicant, 17 Old Church Road LLC, 1140 Globe Avenue, Mountainside, New Jersey 07092.

Lot 20.01 is owned by Old Church Road Associates, LLC, 1140 Globe Avenue, Mountainside, New Jersey 07092, which shares common ownership with the Applicant.

Disclosure of Ownership of LLCs

17 Old Church Road LLC is owned fifty percent (50%) by the Gerard L. Burdi Dynasty Trust, 37 Pacer Court, Basking Ridge, New Jersey 07920, and fifty percent (50%) by the Nicholas M. Burdi Dynasty Trust, 228 Apple Tree Lane, Mountainside, New Jersey 07092.

Old Church Road Associates, LLC is owned fifty percent (50%) by the Gerard L. Burdi Dynasty Trust, 37 Pacer Court, Basking Ridge, New Jersey 07920, and fifty percent (50%) by the Nicholas M. Burdi Dynasty Trust, 228 Apple Tree Lane, Mountainside, New Jersey 07092.

History

Lot 18 was created by a subdivision approved by the Warren Township Planning Board on December 23, 1957 and memorialized by a subdivision map recorded by the Somerset County Clerk on March 4, 1958 as Map Number 555, a copy of which is submitted herewith.

Lot 19.07 was created by a subdivision approved by the Warren Township Planning Board by Resolution dated August 5, 1991 (Application Number 87-42) and memorialized by a subdivision map recorded by the Somerset County Clerk on September 24, 1991 as Map Number 2830, a copy of which is submitted herewith.

Lot 20.01 was created as part of an eleven (11) lot major subdivision approved by the Warren Township Board of Adjustment by Resolution dated November 3, 2020 (Application Number BA 19-08) and memorialized by a subdivision map recorded by the Somerset County Clerk on March 8, 2021 in Book 7317 at Pages 1259-60, a copy of which is submitted herewith. (Preliminary major subdivision approval had been previously granted by the Planning Board for the same land, by Resolution dated January 8, 2018, but that approval was never finalized.)

Jurisdiction of the Planning Board

The major subdivision application pursuant to which Lot 20.01 was created was heard by the Board of Adjustment rather than by the Planning Board because of the need for “D-5” density variance. Under the CR 130/65 variable lot size provision, the number of lots permitted (density) is determined based upon how many lots that fully comply with the bulk requirements are able to be created. Because the creation of the then-proposed eleven (11) lots required several of the lots to be non-conforming as to lot width and lot frontage requirements for several of the lots, generally due to being situated on cul de sacs, the density use variance was required in addition to the width and frontage bulk variances.

Given the relationship between the 2021 approval and the within application (both involving Lot 20.01), Applicant’s counsel conferred with the attorneys for both Boards, who agreed that since the lots proposed in the within application require no bulk variances, the density, as defined in the ordinance, will not be exacerbated. In fact, with the acreage of existing Lots 18 and 19.07 added into the equation, a total of sixteen (16) conforming lots could now be created, as set forth on the conceptual qualifying plan submitted herewith, thus making the overall development compliant as to density. With the need for the density use variance now obviated, the Board of Adjustment no longer has jurisdiction to hear the application and the same is appropriately before the Planning Board.

Helen Street Access Restriction

The aforementioned Filed Map 2830 from 1991 contains a notation that “All Deeds of Conveyance for Lot 19.07 shall contain a clear restriction that there shall be no vehicular access via driveway or otherwise from Lot 19.07 to Helen Street, or any extension thereof.” This restriction is included among the factual findings recited in the Resolution, but it is not one of the express conditions set forth in the Resolution. It was, however, memorialized by way of a recorded Declaration of Restrictive Covenant recorded with the Somerset County Clerk on October 17, 1991 in Deed Book 1833 beginning at Page 273, a copy of which is submitted herewith. As noted by John Phillips (Board Attorney or Planner?) at the April 25, 1988 hearing, as reflected in the minutes thereof, relief

from this restriction would have to come from the Planning Board. Inasmuch as the within proposed subdivision includes an extension of Helen Road from which proposed Lots 18.02 and 18.03 would be accessed, and both of the said lots are at least in part derived from existing Lot 19.07, relief from the Helen Street access restriction is required.

Hiking and Pedestrian Trail Easement

As an express condition of approval of the 1991 major subdivision, as set forth in the Resolution, a 25 foot wide hiking and pedestrian easement (“the Easement”) was granted to the Township of Warren, which was memorialized by a formal document entitled “Hiking and Pedestrian Easement” recorded with the Somerset County Clerk on October 17, 1991 in Deed Book 1833 beginning at Page 234, a copy of which is submitted herewith. The Easement runs along the east and north borders of Lot 19.07, and must be vacated or relocated in order for the proposed subdivision to be implemented.

Conservation and Utility Easements

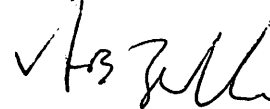
There are existing conservation and utility easements encumbering portions of each of the proposed lots, except for proposed Lot 18.03. These easements shall remain in place, unaffected the subdivision proposed herein.

Temporary Cul De Sac on Old Church Road

The temporary cul de sac located on Old Church Road will be eliminated in accordance with the 1991 and 2021 subdivision approvals.

Respectfully Submitted,

BISOGNO, LOEFFLER & ZELLEY, LLC



By: Frederick B. Zelle, Esq.
Attorneys for the Applicant,
17 Old Church Road LLC

Dated: February 15, 2022