

# Franklin Township

Somerset County, New Jersey



## Township Technical Review Committee (TRC)

Municipal Building  
475 DeMott Lane  
Somerset, NJ 08873  
732.873.2500  
Fax: 732.873.0844  
[www.franklintwpnj.org](http://www.franklintwpnj.org)

### MEMORANDUM

To: Zoning Board of Adjustment

From: Technical Review Committee (TRC)

Date: November 25, 2019

Re: Diamond Investors & Builders – “C” Variance (ZBA-19-00030)  
61 Juliet Avenue (Block 160, Lot 1.01)

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I have reviewed the above referenced application and present the following report based upon review of the application forms and the submitted application materials:

- 1-sheet Variance Plan; prepared by ENSURPLAN INC, last revised 10/23/19
- 4-sheet set of floor plans & elevations, prepared by Steve J. Druga, AIA, dated 6/10/19

#### Site and Project Description

The subject site is a corner lot located at the intersection of Ray Street and Juliet Avenue. The 5,500 square foot site is undeveloped.

The applicant seeks to build a 2-story, 4-bedroom single-family dwelling on the property. The home would be served by public sewer and water. The application seeks the following variances:

- *Lot area:* 9,000 sf minimum required, 5,500 sf existing/proposed
- *Lot frontage:* 90 ft minimum required, 55 ft existing/proposed (Juliet Avenue frontage)

#### Review Comments

1. Lot Area and Lot Frontage Variances. In order to demonstrate hardship with respect to the lot area variance, the applicant must prove that they sent "buy/ sell letters" to the adjoining landowners. Absent such effort, no hardship would be proven.

The applicant must also demonstrate that the variance would not result in substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. In particular, the applicant will need to ensure that the proposal would not substantially impact the character of the neighborhood. Part of the testimony should address compatibility of the lot size and frontage with that existing in the surrounding neighborhood. Quantitative data addressing this issue should be presented to the Board.

2. Condition of Previous Subdivision. Examination of the record reveals that the subject lot (Block 160 Lot 1.01) was created by a subdivision approved in the late 1970s (which also created adjoining lots 1.02 and 1.03 along Juliet Avenue).

As a condition of those approvals<sup>1</sup> the subject lot (lot 1.01) was supposed to be conveyed and merged with lots 5, 6 and 7 (which *that* applicant also owned). Thus, it is clear from those approvals that the subject lot (lot 1.01) was not intended to be a stand-alone building lot.

However, the lot merger required by the ZBA's approval never happened. Lot 1.01 nevertheless remained under common ownership with lots 5, 6 and 7 (i.e., Lupo) until about 2007 after which time only lot 1.01 was conveyed to a family member. This matter would appear to be further complicated by the fact that both parcels (lot 1.01) and lots 5, 6 and 7 (the lots to which it was supposed to be merged) have each been sold and resold.

The applicant should address this matter to the satisfaction of the Board. Specifically, the applicant should address how/ whether this matter affects any hardship justification.

3. Size/ Shape/ Orientation of Home. The proposed home is quite large relative to the size of the site resulting in a proposed lot (building) coverage that is just below the maximum permitted (19.70% proposed where 20% permitted) and an impervious coverage that is just below the maximum permitted (28% proposed where 30% permitted). This would mean that any additional improvements by future homeowners (e.g., storage shed, pool, patio, walkways) will automatically trigger the need for additional variances.

The size, shape and orientation of the home (combined with the insufficient lot frontage on Juliet Avenue) result in a rather unorthodox situation where the only usable yard is to the side of the home (rather than to the rear) and creates an unorthodox relation with respect to the home on adjacent lot 1.02.

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<sup>1</sup> Note: In the 1970's the Planning Board was not empowered to grant variances thus the application went to the Planning Board to approve the subdivision and to the Zoning Board for the associated variances.

At 61% of the required lot size, the applicant needs to make an effort to provide a better “fit” with the neighborhood. Reducing the size of the house and having it face Juliet Avenue (as other homes are on that block – along both Juliet and Newport) would help reduce potential impacts to the surrounding neighborhood (and would add the benefit of providing a usable rear yard for the subject property).

4. Other Comments.

- The elevations and floor plans do not match in various respects with respect to window placement including but not limited to: on the floor plan the second floor window above the door facing Juliet is not symmetrically above the door as represented on the elevation.
- Sidewalks and curbing should be shown on the plans or the applicant should provide justification for waiver of same.
- Compliance with Chapter 222 (tree replacement) will be determined at the time of building permit. Provision of street trees will be reviewed at that time as well.
- Compliance with the Township's Stormwater Ordinance (e.g., drywell size/ design) will be conducted at the time of building permit. The applicant should note that an increase in impervious surface over 1,000 square feet (i.e., over that which received permits) may require some form of stormwater improvement (e.g., drywell or rain garden).
- Construction of the new dwelling will be subject to the payment of affordable housing development fees.
- The applicant will be required to submit an as-built survey after construction so that compliance with Board approvals can be confirmed.
- Connection to sewer will require necessary approval for the Sewer Authority.
- Depending upon house orientation a new E911 address may be necessary.

Note: Applicants represented by engineers and/or architects (or other such professionals) are expected to use the video display system available in Council Chambers to project hearing exhibits. Use of the video display systems will improve visibility of these exhibits for the Board, the public and the Township's video broadcast of the hearing. In order to use the video display system, please bring a computing device capable of utilizing a VGA connection or an HDMI connection. Audio connections are available for both connections. Cables are provided, however adapters are not so please insure you have the required adaptors to connect to either VGA or HDMI.

Exhibit 1: Site Location

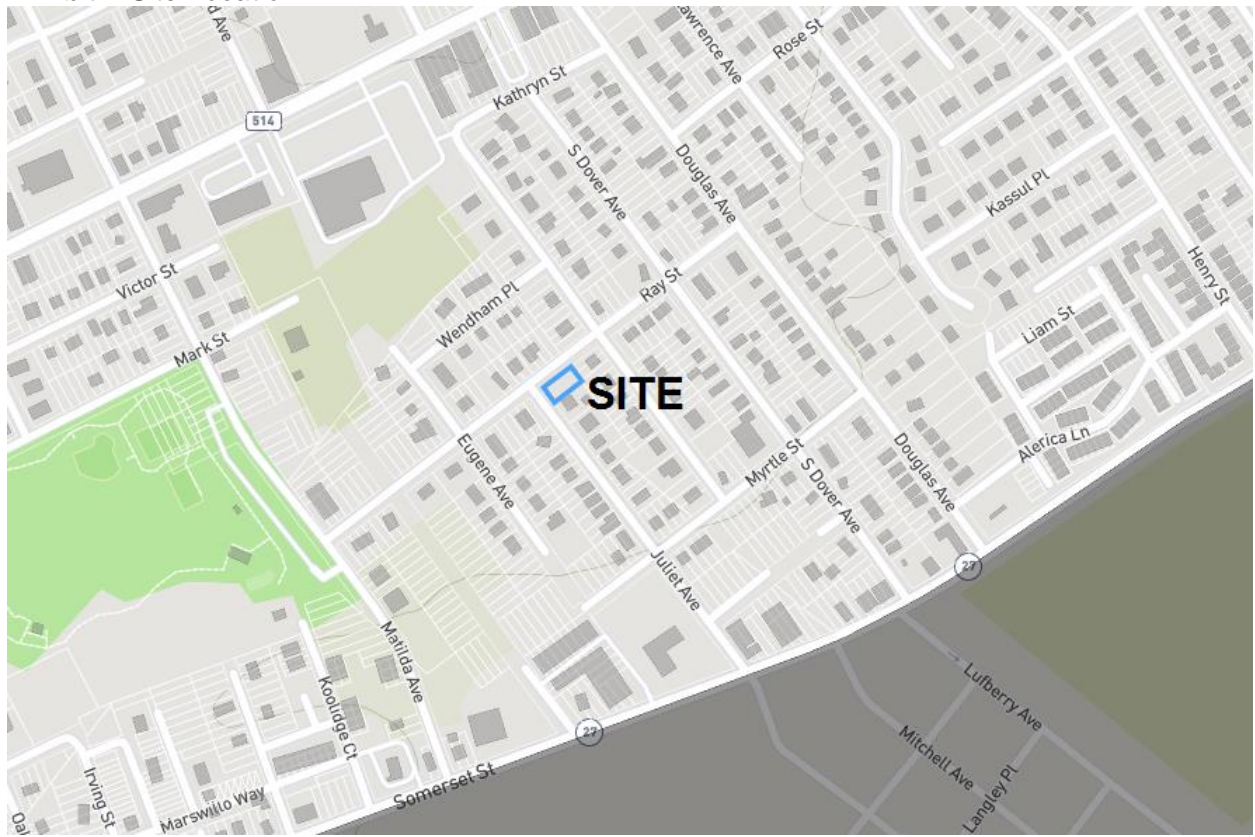


Exhibit 2: Site and Surrounding Area

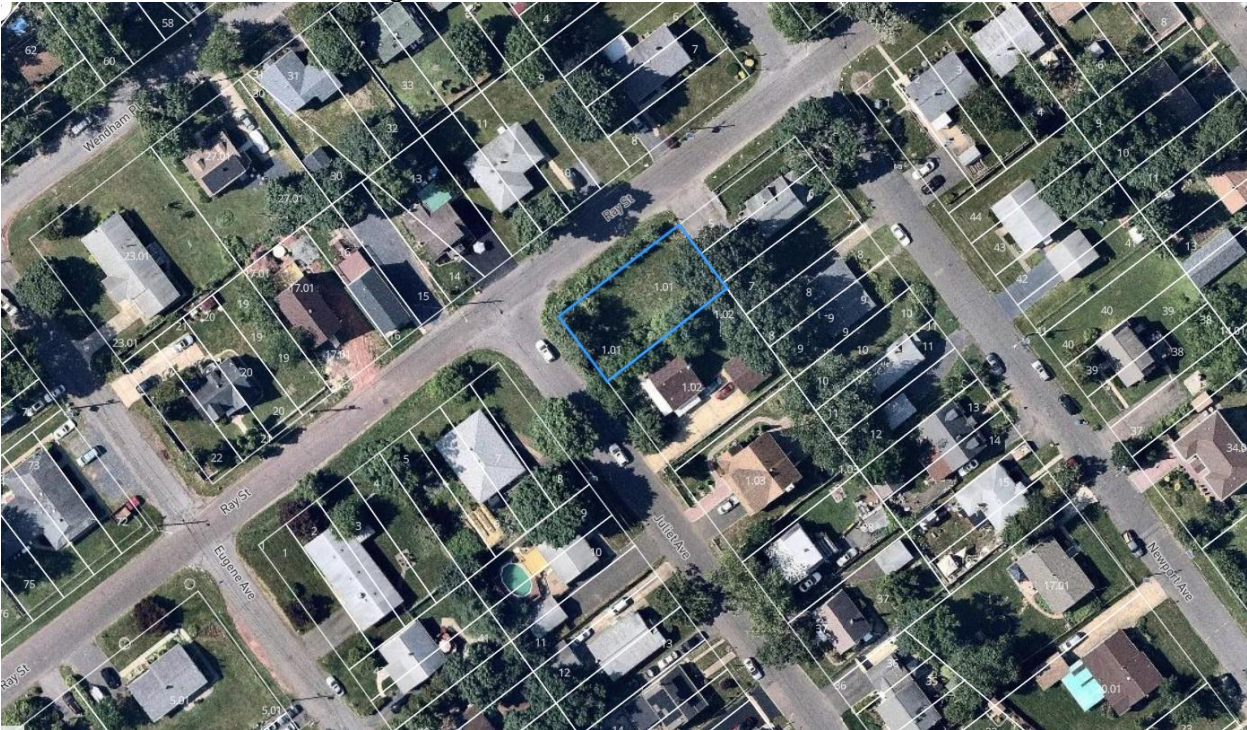


Exhibit 3: Site



*Exhibit 4: Planning Board Approval of Subdivision*

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY

e: Application of Joseph Lupo for a Minor Subdivision  
Docket #1081

The applicant seeks a minor subdivision to create 3 lots at the Easterly corner of Ray Street and Juliet Avenue, on Block .60, Lots 1-4 and 39.

The property runs 100 feet on Ray Street and 200 feet on Juliet Avenue.

The applicant proposes three lots, each 100 feet deep, lot 1.01 having a frontage of 55 feet containing 5,500 square feet, lot 1.02 having a frontage of 72.50 feet containing 7,250 square feet and lot 1.03 containing 7,250 square feet.

The subdivision would create 3 lots with insufficient area requiring a variance from the Board of Adjustment.

The subdivision falls under the definition of a minor subdivision as established in the Subdivision Ordinance Act IV, Section 1(D).

NOW THEREFORE, BE IT RESOLVED, as follows:

1. The said subdivision is hereby classified as a minor subdivision.

2. The applicant is required to obtain variances from the Board of Adjustment because of the insufficient area of each lot.

In the event the Board of Adjustment grants a variance for lot area which conforms to the sketch plat submitted, then the subdivision is exempt from any further proceedings before the Planning Board and the subdivision outlined in Application #1081 is approved.


  
James Pettit, Acting Planning  
Board Secretary

Exhibit 5: Zoning Board Conditional Grant of Variances

RESOLUTION OF  
BOARD OF ADJUSTMENT OF THE TOWNSHIP  
OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY

WHEREAS, Joseph Lupo, for the Estate of Ida Lupo, Appellant, has applied to the Board of Adjustment for a variance from Section 404, Schedule Columns 2, 3, 4 & 5 of the Zoning Ordinance for permission to create through subdivision, three insufficient lots on the premises known as Block 160, Lots 1, 2, 3, 4 & 39 on the Tax Map, and

WHEREAS, a public hearing was held on said application by the Board on April 6, 1978, and

WHEREAS, no person objected to the application, and

WHEREAS, the Board, after carefully considering the evidence presented to it by or on behalf of the Appellant (and by or on behalf of adjoining property owners and the general public), has made the following findings of fact:

1. The property in question is located in the R-7 zone. The property runs 100 ft. on Ray St. and 200 ft. on Juliet Ave.
2. The applicant proposes 3 lots, each 100 ft. deep; Lot 1.01 having a frontage of 55 ft. containing 5500 sq.ft.; Lot 1.02 having a frontage of 72.50 ft. containing 7250 sq.ft. and Lot 1.03 containing 7250 sq.ft.
3. Lots 5, 6 & 7 are presently owned by the applicant, Joseph Lupo.
4. The corner of the property of Lot 1.01, which is on Ray St. & Juliet Ave. will be dedicated to Franklin Township.
5. Out of 38 properties, 16 in the area are 50' X 100' or less.
6. Proposed Lot 1.03 has a vacant barn and a shed which will be demolished. This lot will then be sold as a vacant prospect.
7. Proposed Lot 1.01 will be conveyed and merged to Lots 5, 6 & 7 in Block 160, property which is presently owned by Joseph Lupo.
8. Proposed Lot 1.01 is located on the corner of Ray St. and Juliet Ave. of which 9000 sq.ft. is required.

WHEREAS, the Board, has made the following ultimate findings and conclusions based upon the foregoing findings of fact:

1. That the granting of said variance will not adversely affect the values of adjacent and nearby properties.
2. That the granting of said variance will not alter the essential character of the neighborhood.
3. That the granting of said variance will promote the general health, safety and welfare.
4. That the granting of said variance will be without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment this 6th day of April, 1978, on the basis of the evidence adduced before it, the aforesaid findings of fact and ultimate findings and conclusions, that this Board does hereby grant a variance from the provisions of Section 404, Schedule Columns 2,3,4 & 5 of the Zoning Ordinance to create through subdivision, 3 lots, #1.01, 1.02 & 1.03, Block 160, with insufficient area subject to the following conditions:

1. Lot 1.01 be conveyed to Joseph Lupo, owner of Lots 5, 6 & 7, Block 160.
2. Lot 1.01 merge and become part of Lots 5, 6 & 7.

The grant of the variance specified herein shall not be construed to obviate satisfaction of other requirements of the Zoning Ordinance or established elsewhere than in such ordinance.

Approved by  
Board of Adjustment  
Township of Franklin  
Somerset County, N.J.  
Date April 6, 1978  
Gerrit Schwarzigstein Sec.

Exhibit 6: Re-Approval of Subdivision Subject Same Conditions of Approval from PB and ZBA

RESOLUTION OF  
FRANKLIN TOWNSHIP PLANNING BOARD  
SOMERSET COUNTY, NEW JERSEY

RE: JOSEPH LUPO, for the estate of Ida Lupo, minor subdivision docket number 1081-B, block 160, lots 1-4 and 39.

WHEREAS the applicant, Joseph Lupo, was granted conditional approval pending a variance from the Board of Adjustment, and,

WHEREAS Mr. Lupo was granted said variance on April 6, 1978 to create through three (3) lots on block 160 lots 1.01, 1.02 and 1.03 contingent upon conveyance of new lot 1.01 to the applicant-owner of adjoining lots 5-7 block 160, and the merger of these lots after recording with the County of Somerset; and

WHEREAS the applicant was to file by October 11, 1978 with the County Recording Officer; and,

WHEREAS Mr. Lupo failed to record his subdivision within 190 days of final approval; and

WHEREAS approval of said subdivision expired as per the Municipal Land Use Law and the Map Filing act; and,

WHEREAS there have been no changes to this subdivision or to the Zoning and Subdivision Ordinance to directly affect the subdivision for over one year to date.

NOW, THEREFORE, BE IT RESOLVED that the Franklin Township Planning Board re-approves minor subdivision docket number 1081-B under the same conditions and terms of the Planning Board and Board of Adjustment on April 5 and 6 respectively in 1978.

FURTHERMORE, BE IT RESOLVED that minor subdivision docket number 1081-B shall be filed by the applicant/ developer Joseph Lupo with the County Recording Officer, the Township Engineer and Tax Assessor by a plat in conformity with such approval and the provisions of the N.J. Map Filing Act, or by deed clearly describing the approved minor subdivision within one month on or before June 1, 1979.

JOSEPH LUPO  
#1081-B  
EXTENSION  
OF  
TIME

DATE: May 2, 1979.

Andrew Caspowski

SECRETARY PLANNING BOARD

Elene Cutroneo

Elene Cutroneo, Secretary

9/12/91



Exhibit 7: Subdivision Map

