

**BOROUGH OF DUMONT
COUNTY OF BERGEN
JOINT LAND USE BOARD**

**RESOLUTION GRANTING MINOR SUBDIVISION APPROVAL AND BULK
VARIANCES WITH RESPECT TO THE PROPERTY KNOWN AS
175 DUMONT AVENUE
BLOCK 1306, LOT 4, BOROUGH OF DUMONT,
COUNTY OF BERGEN, STATE OF NEW JERSEY**

WHEREAS, an Application for Minor Subdivision Approval and bulk variances has been made to the Dumont Joint Land Use Board pursuant to N.J.S.A. 40:55D-70(c) by E.N.M. BUILDERS, INC., (the "Applicant") in connection with its subdivision and variance application for the property commonly known as 175 Dumont Avenue, more particularly described as Block 1306, Lot 4 on the Tax Map of the Borough of Dumont, County of Bergen, State of New Jersey (the "Property"); and

WHEREAS, the Applicant has applied to this Board for minor subdivision approval and variance relief pursuant to N.J.S.A. 40:55D-70(c) from the restrictions of the following sections of the Zoning Ordinance of the Borough of Dumont:

Category	Allowed	Proposed	Variance
Lot Area	7,500 square feet	4,999	Yes
Lot Frontage	75'	50'	Yes
Lot Width	60'	50'	Yes
Front Yard	16.6' (average)	12'	EC ¹
Building Height	28' maximum allowed	29.7'	EC ¹

(1) Existing Nonconforming Condition (existing 1-family house)

WHEREAS, the Application was duly considered by the Joint Land Use Board at a public hearing (via virtually and telephonically via Webex) on April 20, 2021; and

WHEREAS, the Applicant gave proper notice in accordance with law; and

WHEREAS, at said public hearings the Joint Land Use Board received the following documents in evidence:

1. Photographs of subject property and surrounding lots; and
2. Tax map showing Dumont Avenue and adjacent streets with red shading to show non-conforming, existing lots.
3. Minor Subdivision Plan drawing by Hubschman Engineering dated March 4, 2021.
4. Soil Erosion & Sediment Control Plan; Details by Hubschman Engineering dated March 4, 2021.
5. Existing Conditions Plan by Hubschman Engineering dated March 4, 2021.
6. Set of Architectural Plans by John Bryjak of John Bryjak Architect, LLC, dated March 3, 2021 consisting of 5 sheets.
7. Letter from Board Engineer, Carl P. O'Brien, P.E., P.P., C.M.E., C.P.W.M. of Colliers Engineering & Design, dated April 7, 2021.

WHEREAS, the public had an opportunity to be heard on the Application at said hearing; and

WHEREAS, the Joint Land Use Board heard the sworn testimony from Applicant's Engineer, Michael Hubschman of Hubschman Engineering, P.A., having an address at 263A S. Washington Avenue, Bergenfield, New Jersey 07621, who testified in support of the Application; and

WHEREAS, the Joint Land Use Board heard the sworn testimony from Applicant's Architect, John Bryjak of John Bryjak Architect, LLC, having an address at 135 Hiawatha Boulevard, Oakland, New Jersey 07436, who testified in support of the Application; and

WHEREAS, the Joint Land Use Board heard the sworn testimony from Applicant's Professional Planner, David Spatz of Community Housing and Planning Associates, having an address at 60 Friend Terrace, Harrington Park, New Jersey 07640, who testified in support of the Application; and

WHEREAS, the Board received a report on the Project dated April 7, 2021, from Carl P. O'Brien, P.E., P.P., C.M.E., C.P.W.M. of Colliers Engineering and Design, Board Engineer; and

WHEREAS, following the hearing held on April 20, 2021, the Joint Land Use Board approved the Application, subject to certain conditions; and

WHEREAS, the Board now wishes to set forth its findings, conclusions and conditions with respect to the Application;

NOW, THEREFORE, BE IT RESOLVED by the Joint Land Use Board that the following facts are hereby made and determined:

1. The proceedings in this matter were stenographically transcribed and voice recorded. The facts in this Resolution are not intended to be all-inclusive but merely a summary and highlight of the complete record made before the Board.
2. The Applicant is the contract purchaser of the property commonly known as 175 Dumont Avenue, Dumont, New Jersey, and more particularly described as Block 1306, Lot 4 on the Tax Map of the Borough of Dumont. Said property is located within the "RA" 1-Family Residential District pursuant to the Zoning Ordinance of the Borough of Dumont.
3. Applicant's Attorney, Matthew Capizzi, Esq. of Capizzi Law Offices, 11 Hillside Avenue, 2nd floor, Tenafly, New Jersey 07670, gave a brief overview of the project, being a proposed subdivision of a 100' x 100' lot into two 50' x 100' lots. Mr. Capizzi stated that a tax map from 1963 shows that the subject lot had at that time been two 50' x 100' lots but had at some point thereafter been merged into one existing lot.
4. The Applicant's Engineer, Michael Hubschman, was sworn in by Board attorney, Matthew Root, Esq., and was accepted as an expert witness and presented a more detailed overview of the property, stating that there is an existing dwelling located on the western half of the property (proposed new lot

4.01). The Applicant proposes subdividing the existing 100' x 100' property where one single-family home is present on the western side, into two (2) roughly equal lots and constructing a single-family home on the eastern side (proposed new lot 4.02). The existing house on proposed new lot 4.01 will remain as presently constructed.

5. Mr. Hubschman testified that there are two pre-existing nonconforming conditions with respect to the existing house: (1) front yard setback is 12' where 16.6' (average) is required, and (2) the existing building height is 29.7' where a maximum 28' is permitted. The subdivision will result in three nonconforming conditions on each of the proposed lots: (1) Lot area will be 4,999.85 square feet (7,500 square feet minimum required); (2) Lot Frontage will be 50' (75' minimum required'); and (3) Lot Width will be 50' (60' minimum required). No bulk variances will be required for the house to be constructed on proposed lot 4.02, and the design of the proposed house meets maximum height requirements (28' proposed; 28' allowed) and maximum F.A.R. (49.98% proposed; 50% allowed). Mr. Hubschman testified that there will be no changes to the existing house located on proposed new lot 4.01.
6. Mr. Hubschman testified that his review of the area shows that most of the properties in the neighborhood are 50' wide. The new lots would thus be consistent with the neighborhood.
7. Mr. Hubschman testified that a seepage pit is proposed for the new house on lot 4.02, that the property slopes away from the neighboring properties, that there are no extraordinary engineering issues, and that the site plan will comply with the review letter from Board Engineer Carl O'Brien of Colliers Engineering dated April 7, 2021.
8. Engineer Carl O'Brien stated that he did not object to the seepage pit.
9. At the conclusion of Mr. Hubschman's testimony, the hearing was opened to

questions from the public. No members of public had questions for Mr. Hubschman.

10. At that time, the testimony of Mr. Hubschman was closed to the public and the Board felt all concerns were adequately addressed.
11. In support of the Application, Applicant's Architect, John Bryjak of John Bryjak Architect LLC, 135 Hiawatha Boulevard, Oakland, New Jersey 07436, was sworn in by the Board Attorney and was accepted as an expert witness.
12. Mr. Bryjak described the interior design of the house proposed to be constructed on lot 4.02. There is a powder room on the first floor and four bedrooms and two full bathrooms on the second floor. Mr. Bryjak testified that the exterior design is intended to blend in with the other homes constructed in the neighborhood, that the height was kept low, and the second floor is set back to make the mass of the home unobtrusive.
13. At the conclusion of Mr. Bryjak's testimony, the hearing was opened to questions from the public. No members of the public had questions for Mr. Bryjak.
14. At that time, the testimony of Mr. Bryjak was closed to the public and the Board felt all concerns were adequately addressed.
15. In support of the Application, Applicant's Planner, David Spatz, P.P., A.I.C.P. of 60 Friend Terrace, Harrington Park, New Jersey, was sworn in by the Board Attorney and was accepted as an expert witness in planning.
16. Mr. Spatz testified that he reviewed the Borough tax maps, Master Plan and zoning ordinances as part of his engagement. Mr. Capizzi introduced into evidence and presented as Exhibit A-1, four photographs of the subject property and the surrounding lots produced by Mr. Spatz. Mr. Spatz described a photo of the property showing that the existing dwelling is on one half of the lot, leaving room to develop the open space on the proposed new lot 4.02, which is

presently unimproved. Mr. Spatz testified that subdividing the property into the two proposed lots will be appropriate for, and fit in with, the size and scale of the other dwellings in the neighborhood. Mr. Spatz testified further that the additional photos show homes of varying sizes, but similar to the proposed dwelling, and that the F.A.R. being 49.98% indicates that the dwelling is appropriate for the property and the neighborhood.

17. Mr. Capizzi introduced into evidence and presented Exhibit A-2, which was made from the Key Map shown on the Minor Subdivision Plan by Hubschman Engineering, P.A. Mr. Spatz testified that the map shows the neighborhood properties within a 200' radius of the subject property and that within the area, only 5 out of 50 lots conform to the ordinance bulk requirements for the zone, and some of those have other non-conformities. For example, there are two 75'-wide lots on the adjacent block, but both of those lots have 2-family dwellings constructed on them and are undersized. Mr. Spatz testified that it is clear that the development pattern in the neighborhood is for 50' x 100' lots. Further, Mr. Spatz testified that the subdivided lot will be in scale with the surrounding neighborhood and would be a better zoning scheme than existing or as may otherwise be developed, and that the proposed subdivision presents a positive improvement for the neighborhood. Further, Mr. Spatz testified that there is no negative impact on the zone plan or ordinances, and that the negative criteria are thus satisfied and favor subdividing the lot.
18. Board Member Jimmy Chae asked about evidence that the lot was merged. Mr. Spatz explained that the tax map of the neighborhood shows that 25' x 100' lots were combined to make the presently-existing 50' x 100' lots. The subject property comprises four former 25' x 100' lots. Mr. Chae asked how one larger home is a negative, to which Mr. Spatz replied that the larger home is likely to generate more traffic than two smaller homes and that the larger home may

- create a negative impact on the neighborhood.
19. Finally, Mr. Spatz testified that all indications are that the lot was originally two separate lots and was thus more consistent with the rest of the neighborhood, and that granting the subdivision is within the intent of the Master Plan and zoning ordinances particularly since it is clear that it was intended that the lot be developed as two separate 50' x 100' lots.
 20. At the conclusion of Mr. Spatz's testimony, the hearing was opened to questions from the public. No members of public had questions for Mr. Spatz.
 21. At that time, the testimony of Mr. Spatz was closed to the public and the Board felt all concerns were adequately addressed.

CONCLUSIONS OF LAW:

WHEREAS, the Board, after careful deliberation, found that this Application has met the requirements for minor subdivision and bulk variance approval and the Board has determined that the relief sought can be granted without a substantial negative impact, provided all conditions of approval are satisfied or met; and

WHEREAS, The Board finds that the purposes of zoning are advanced where the proposal promotes the upgrading of the area through creative development techniques and good civic design and arrangement and complies with the Borough's site plan ordinance. The Board concludes and agrees that the site can be subdivided with the proposed improvements and meet the intent of the Master Plan and zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Dumont Joint Land Use Board, in the County of Bergen and State of New Jersey on the 20th day of April 2021, upon motion made by Board Member Al Moriarty, and seconded by Board Member Ken Armellino that the Application of **E.N.M. BUILDERS, INC.** for minor subdivision approval, as well as the variance

relief sought, be granted subject to the following terms and conditions:

CONDITIONS SPECIFIC TO THE APPLICATION

1. Applicant would comply with the requirements of the Board Engineer's review correspondence dated April 7, 2021.

GENERAL CONDITIONS

1. The Applicant shall comply with all of the stipulations made during the hearing on this Application.
2. The Application must comply with the necessary requirements of the zoning ordinances of the Borough of Dumont and the Municipal Land Use Act of the State of New Jersey, N.J.S.A. 40:55D-2 et seq.
3. The Applicant shall develop, prepare and improve the subject premises so as to conform with all of the details shown on the aforementioned plans and submissions, as presented to the Board and in accordance with the zoning ordinances, building codes and all other standards and ordinances unless expressly stated to the contrary within the approvals granted.
4. No building structure or land on the presently undeveloped new lot 4.02 shall be occupied until such time as the Zoning Officer of the Borough of Dumont shall issue a final Certificate of Zoning Compliance to ensure compliance with the Board's decision.
5. Unless otherwise addressed herein or at the hearing held on April 20, 2021, the Applicant shall comply with the recommendations of the Board's professional and any other post-approval reports. The Applicant's professionals shall amend the architectural plans to reflect these recommendations in the form of drawing detail

and/or written construction note detail format as necessary. In addition, the Applicant's professionals shall amend any engineering reports, engineering calculations that were presented as a part of the testimony before the Board as necessary and/or required by the Board Engineer and the Board Planner. All such amendments shall be submitted to the Board Engineer and Board Planner for review within thirty (30) days of the adoption of this Resolution. A Planting Plan shall be submitted to the Board Planner for her approval. Failure to provide same within this time period may result in this Resolution being declared null and void.

6. Within thirty (30) days of the approval of this Resolution by the Board, the Applicant shall, if necessary, post any additional escrow funding that may be required to reimburse the Borough's professionals for the review of this Application. Failure to provide such escrow fees may result in this Resolution being declared null and void.
7. The completed revised plans and submissions must be approved and signed by the Board Chairman, and Board Secretary, prior to submission to the Zoning Officer of the Borough of Dumont Certificate of Zoning Compliance, and prior to the issuance of any building permits.
8. The Applicant is responsible for publishing notice of this decision as required by the M.L.U.L.

This Application was approved by the Joint Land Use Board at its regular meeting on April 20, 2021 upon motion of Board Member Al Moriarty and seconded by Board Member, Ken Armellino upon the roll call as follows:

Ayes: 4

Nays: 2

Absent: 3

Abstain: 0

ROLL CALL:

Nico Attanasio	Class I	A
Rafael Riquelme	Class II	Y
Jimmy Chae	Class III	N
Kenneth Armellino	Class IV	Y
Graeme Dutkowsky	Class IV	Y
Paola Carolina Fajardo	Class IV	A
Alfred Moriarty	Class IV	Y
Andrew Warta	Class IV	A
Gino Zilocchi	Class IV	N

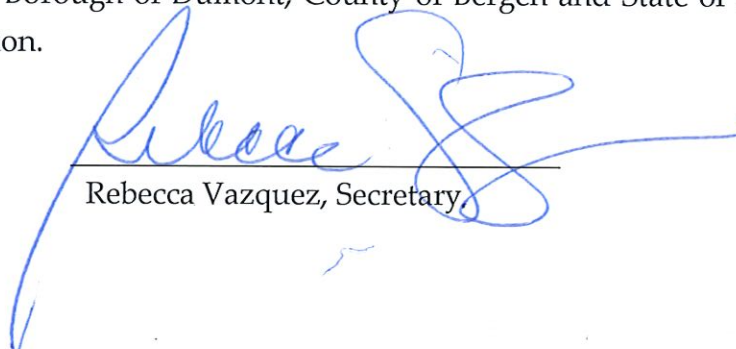
This Resolution was adopted on the 15th day of May 2021 upon the motion of Al Moriarty and seconded by Ken Armellino by a vote of 4 Ayes and 2 Nays.



Graeme Dutkowsky, Chairman

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Applicant, Borough Clerk, Construction Code Official and Zoning Officer of the Borough of Dumont.

I do certify that this is a true and correct copy of the Resolution as adopted by the Joint Land Use Board of the Borough of Dumont, County of Bergen and State of New Jersey in the within Application.



Rebecca Vazquez, Secretary