

NICOLE M. MAGDZIAK
Attorney at Law

One Jefferson Road
Parsippany, NJ 07054-2891
T: (973) 966-8027 F: (973) 461-4608
nmagdziak@daypitney.com

January 14, 2021

VIA E-MAIL AND UPS

Ojetti Davis, Board Secretary
Planning Board
Township of South Orange Village
76 South Orange Ave., Suite 302
South Orange, NJ 07079

Re: 206 Ampere Parkway LLC (the “Applicant”)
201 and 167 Ridgewood Road North
Block 1303, Lots 37 and 38

Dear Ms. Davis:

Please recall that this firm represents the Applicant in connection with its application for minor subdivision approval for the above-referenced property (the “Property”). The Applicant wants to first thank the Board and its professionals for its time in hearing the Applicant’s application.

The Applicant appeared at the Planning Board’s (the “Board”) meeting on January 4, 2021 to present its application. The application was carried to the Board’s February 1, 2021 meeting to allow time for good-faith discussions and coordination. The Applicant has made every effort to understand the comments from the public, Planning Board (the “Board”) Members and Planning Board Professionals at the Board’s meeting on January 4, 2021, to review them with its professionals and to address them. The Applicant has attempted to implement as many suggestions from the Board and its professionals as possible.

The New Jersey Supreme Court held in Pizzo Mantin Group v. Township of Randolph, that planning boards do not have the authority to deny an application for subdivision approval “based on considerations of the general welfare, the purposes of the Municipal Land Use Law, and sound planning.” 137 N.J. 216 (1994). A planning board is required to approve a subdivision unless it fails to comply with the requirements specifically delineated in the municipality’s subdivision and zoning ordinances. Id. At 226. As stated during the January 4, 2021 hearing and as noted in the Board Planner review letter, the proposed minor subdivision does not require

Ms. Ojetti Davis
January 14, 2021
Page 2

variance relief from the Township of South Orange Village Zoning Ordinance and is in compliance with the minor subdivision checklist requirements generated from the Subdivision Ordinance, Section 185-68. As such, the application remains “by-right”, meaning that the Applicant has a legal right to subdivide the Property as proposed. The Board’s scope of review of the application is to confirm that the application complies with both the Zoning Ordinance and Subdivision Ordinance and to review the topographic conditions of the Property. The Applicant submitted reports and offered testimony on issues such as slopes, drainage, riparian buffer and tree removal at the January 4, 2021 meeting. These issues were further referenced in the Board Engineer’s review letter, which the Applicant agreed to comply with as shown in the revised plans submitted herewith. Further, the New Jersey Supreme Court confirmed that variances are disfavored because zoning ordinances are presumed to advance the purposes of zoning embodied in the Municipal Land Use Law. *See, generally, Medici v. BPR Co.*, 107 N.J. 1 (1987). As such, the Applicant continues to propose its original subdivision plan because no variances are required, and, in fact, a non-conforming condition, the front yard setback of the existing house, will be eliminated.

Since the January 4, 2021 meeting, the Applicant has revised its application materials in accordance with the testimony presented at said meeting to comply with the comments contained in the Board Planner review letter dated December 30, 2020 and the Board Engineer review letter dated December 30, 2020. Enclosed please find twenty (20) copies of the revised application materials consisting of the following:

1. Site Plan prepared by David E. Fantina, P.E., dated November 5, 2020, last revised January 14, 2021;
2. Maintenance Manual for the Stormwater Improvements; and
3. Letter in response to Board Planner review letter dated December 30, 2020 and the Board Engineer review letter dated December 30, 2020.

As was confirmed at the hearing on January 4, 2021 by the Board Planner, the Property is not listed on the Township, State or Federal historic property list. Township Ordinance Number 2016-09, which establishes a list of historic properties in the Township over which the Township Historic Preservation Commission (“HPC”) has jurisdiction, was adopted in 2016. The Applicant’s Property was not included on said list. As such, the HPC does not have jurisdiction to review this pending application or to require a certificate of appropriateness for demolition.

The Applicant’s principal, a certified homebuilder in New Jersey, has evaluated the existing house. Given the existing condition of the house, its age and its many piece-meal additions over the years, the house is not suitable for renovation and resale. In response to the comments received relating to the potential historic nature of the Property and existing house, the Applicant has had discussions with the Board’s Planner/Zoning Official and the President of the

Ms. Ojetti Davis
January 14, 2021
Page 3

Board of Trustees. As requested by the Zoning Officer, the Applicant will host a site inspection of the Property at a mutually convenient time. The Applicant is also agreeable to permitting the HPC to fully document the house and the Property by taking photographs and/or videos prior to demolition. The Applicant is amenable to permitting the HPC to evaluate those items that are within the Property or part of the house that the HPC considers valuable to preserve and for the HPC, at its own cost, to recover those items prior to demolition.

Additionally, the Applicant has reviewed the Property relating to the “historic well” that was discussed at the January 4, 2021 hearing. The Applicant, its professionals and the prior owner of the Property are unaware of a well being located on the Property. The Applicant further inquired with the Township building and engineering departments as to this well and there is no record of such a well. If there is an accessory structure that the HPC considers valuable to preserve that appears to be a “well house,” the Applicant is agreeable to donating said structure to the HPC.

We look forward to discussing the above at the Board’s meeting on February 1, 2021. If you have any questions or require that further information be provided, please contact me.

Very truly yours,



Nicole M. Magdziak

Enclosures

cc: 206 Ampere Parkway LLC (via e-mail)
William Sullivan, Board Attorney (via e-mail)
Greer Patras, Board Planner (via e-mail)
Eric Keller, Board Engineer (via e-mail)