

**GREEN TOWNSHIP PLANNING BOARD
RESOLUTION MEMORIALIZING THE GRANT OF
MINOR SITE PLAN APPROVAL, SUBJECT TO CERTAIN CONDITIONS, TO
APPLICATION NO. PB 1414
MARY BETH WHITE
(BLOCK 12, LOT 42)
22 FOX HOLLOW WAY**

WHEREAS, application having been made on December 5, 2014, by Mary Beth White, who resides at 22 Fox Hollow Way, Green Township, New Jersey, to the Green Township Planning Board, seeking the classification, as a *minor* site plan, and the approval thereof of the proposed relocation of an existing drainage easement within which the applicant caused to be constructed an in-ground swimming pool, to an existing swale, located beyond (northwesterly) of the existing drainage easement, with respect to property owned by the applicant, said property known and designated as Block 12, Lot 42, on the Green Township Tax Map, said property being commonly known as 22 Fox Hollow Way; and,

WHEREAS, the application was reviewed for completeness and general sufficiency (for placement on the agenda of the full Planning Board) at a Technical Review Committee (TRC) meeting convened on December 30, 2014, and at which the TRC determined the application to be *substantially complete* and sufficient for placement on the Board's agenda; and,

WHEREAS, although, pursuant to the Municipal Land Use Law, particularly N.J.S.A. 40:55D-12, formal notice (by publication in the official newspaper and written notice to property owners located within 200 feet, etc.) was not required, the applicant's attorney, Gary A. Kraemer, Esq., of the firm of Daggett, Kraemer and Gjelsvik of Sparta, NJ, agreed pursuant to the request of the Planning Board attorney in that regard, to undertake publication of notice in the official newspaper and written notice to all property owners located within 200 feet, etc., of the subject property; and,

WHEREAS, a hearing was held upon the application at the regular meeting of the Board convened on January 8, 2015, at which the applicant was not in attendance (on account of her attending to an out-of-state family member's illness) but at which the applicant was represented by counsel, to wit, Gary A. Kraemer, Esq., and at which David A. Beesley, P.E., P.P., the applicant's professional engineer and professional planning consultant, appeared and testified in support of the application; and,

WHEREAS, no objectors to the application appeared before the Board, nor were any communications by or on behalf of such objectors received by the Board, although the attorney for the contract purchaser of the White property was in attendance at the meeting but did not participate in or, in any manner, object to the granting of the application; and,

WHEREAS, as a result of the application made to it, the review thereof by the Planning Board Technical Review Committee (TRC) at its meeting convened on December 30, 2014 and the (noticed) public hearing held thereon at the regular meeting of the Board convened on January 8,

2015, all as aforesaid, the Green Township Planning Board does herewith describe the application for *minor site plan* approval particularly as follows:

1. The applicant is Mary Beth White, who is the property owner in residence at the subject property, which is known and designated as Block 12, Lot 42, on the Green Township Tax Map and is commonly known as 22 Fox Hollow Way, Green Township, New Jersey.
2. The subject property is a (slightly irregular) rectangular parcel which is a corner lot located at the northwesterly corner of the intersection Fox Hollow Way and the (unimproved) extension of Misty Lane.
3. The subject contains a total area of 2.478 acres as shown on a plat entitled: *Drainage Easement Realignment with Topography, Block 12, Lot 42, Township of Green, Sussex County, New Jersey*, prepared by Robert F. Hogan, L.S. of Hackettstown, NJ, and on a plat entitled: *White Residence, 22 Fox Hollow Way, Green Township, Sussex County, New Jersey*, prepared by David L. Beesley, P.E., P.P., of D. L. Beesley Engineering, Bloomfield, NJ, the (Hogan) survey plat being dated October 18, 2004, and the (Beesley Engineering) site plan plat being dated December 5, 2014.
4. The subject property was created by the approval of a major subdivision known as *Stone Meadows, Phase III & IV*, which final major subdivision approval was perfected by the filing of the final plat on August 28, 1998, as Map No. 1204 in the Sussex County Clerk's Office.
5. The subject property is improved with the two-story framed dwelling house owned and occupied by the applicant which is under contract of sale to a third-party.
6. It was in the context of the proposed sale of the subject property to that third party that a survey was conducted disclosing to the applicant that the in-ground swimming pool she contracted to install (and which was installed and presently exists) on the subject property and at the rear (westerly) of the dwelling house was located in the center of an existing drainage easement.
7. The swimming pool was constructed in 2005 pursuant to a Zoning Permit issued on May 8, 2005.
8. The drainage easement was a component of the overall stormwater management plan for the *Stone Meadows* major subdivision.
9. The drainage easement previously functioned as the overland (sheet flow) drainage area from the discharge of an existing 15 inch R.C.C.P. (concrete pipe) located under the *Misty Lane* (unimproved extension) *paper* street.

10. The applicant's attorney, Gary A. Kraemer, Esq., explained to the Board that, to the best of his client's (the applicant's) ability to reconstruct how this encroachment occurred, was as a result of the pool installation company having misunderstood the "flagging" placed on the property to preclude construction within the drainage easement as the chosen location for the proposed construction of the in-ground swimming pool.
11. Accordingly, the applicant now proposes to relocate the legal (to be established by metes and bounds description) drainage easement having a width of 20 feet to an area to the rear (northwesterly) of the swimming pool and previously existing drainage easement as an effective substitute for the originally established drainage easement encroached upon by the pool.
12. The proposed (realigned) drainage easement will contain an area of 4,930.52 square feet and will be generally centered on the swale already existing on the subject property in that location.
13. Accordingly, no new construction, excavation, grading or land disturbance is proposed nor are any such activities recommended by the Board engineer to occur.
14. The applicant's engineer, David L. Beesley, P.E., testified that the volume and velocities of the stormwater flow onto and across the subject property, both in the previously existing drainage easement area and the existing swale area which will be the site of the relocated drainage easement, is modest and the flows and velocities are non-erosive.
15. In that this area of the subject property to which the drainage easement is to be relocated is long established and stabilized lawn, the applicant's engineer opined and the Planning Board engineer, John P. Miller, P.E., P.P., C.M.E., agreed the proposed relocation would be an adequate solution to replace the existing encroached upon drainage easement.
16. John P. Miller, P.E., P.P., C.M.E., reviewed the application and rendered a report thereon dated January 8, 2015.
17. The application was submitted by the applicant's attorney and administered by the Board as a *minor* site plan although, from a strict Municipal Land Use Law and Green Township Land Use Regulation perspective, residential development and improvements are exempt from minor site plan review and approval. However, the Board determined, based upon the advice of its attorney in that regard, that the application had to be categorized in some appropriate administrative classification and *minor* site plan approval was deemed to be the most appropriate.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Green that, as a result of the application made to it, the review thereof by the Planning Board's Technical Review (TRC) Committee at its meeting convened on December 30, 2014, and the Board's review of the site plan plats, reports, documents and other exhibits submitted in support thereof, the Board's review of the report prepared by John P. Miller, P.E., P.P., C.M.E., the Planning Board engineer, and the hearing held upon the application at a (noticed) public hearing convened at the regular meeting of the Board held on January 8, 2015, the following **OFFICIAL ACTION** is taken with respect thereto:

1. **APPLICATION NO. PB 1414** being the application of **MARY BETH WHITE**, with respect to property owned by the applicant, said property known and designated as Block 12, Lot 42, on the Green Township Tax Map, said property being commonly known as 22 Fox Hollow Way and said property being a corner lot, located at the northwesterly corner of the intersection of Fox Hollow Way and the (unimproved) extension of Misty Lane, said property containing a total area of 2.478 acres proposing to **RELOCATE AN EXISTING (ENCROACHED-UPON) DRAINAGE EASEMENT, BE** and same is herewith **GRANTED MINOR SITE PLAN APPROVAL**.
2. The foregoing Official Action is taken subject compliance with the following terms and conditions:
 - a. The applicant shall provide proof of the payment of all real estate taxes and assessments due on the subject property through the first quarter of 2015.
 - b. The applicant shall pay all application and review escrow fees and shall reimburse the Township of Green for the actual costs of professional services (engineering and legal) rendered in administrative review response to the application submitted.
 - c. The applicant shall cause to be prepared by her attorney, engineer and/or surveyor a legal (metes and bounds) description of the proposed relocated drainage easement which, upon the review and approval thereof by the Planning Board engineer and Planning Board attorney, shall be recorded in the Sussex County Clerk's Office and proof thereof submitted to the Planning Board secretary for the files. The easement document shall clearly indicate that the previously established easement is vacated and relocated to the area described therein.
 - d. No new construction or land disturbance shall occur in the relocated drainage easement area and the drainage document required by condition 2. c. shall so clearly indicate.

GREEN TOWNSHIP PLANNING BOARD



SCOTT HOLZHAUER, CHAIRMAN



DESIREE L. DUNN, SECRETARY

I hereby certify the foregoing Resolution to be a true and complete memorialization of the Official Action taken by the Green Township Planning Board at its regular meeting held on January 8, 2015, by a motion and vote as follows:

MOTION TO GRANT MINOR SITE PLAN APPROVAL, SO AS TO APPROVE THE RELOCATION OF AN EXISTING DRAINAGE AREA ENCROACHED UPON BY AN IN-GROUND SWIMMING POOL, WITH RESPECT TO APPLICATION NO. PB 1414 - MARY BETH WHITE (BLOCK 12, LOT 42) – 22 FOX HOLLOW WAY:

IN FAVOR: Chairman Holzhauser, Mr. Bambara, Mr. Cercone, Mr. Viersma, Mr. Wilson, Mr. Raffay, Mr. Perigo.

OPPOSED: None.

ABSTAIN: Mr. Rittie (who did not sit with the Board or, in any fashion, participate in this application).

ATTEST:



DESIREE L. DUNN, SECRETARY

Dated: February 12, 2015
GPB:MaryBethWhiteGrantMinorSitePlanApprovalforDrainageEasement