

**RESOLUTION**

**PLANNING BOARD**

**TOWNSHIP OF LIVINGSTON, NEW JERSEY**

Decided: February 18, 2014  
Memorialized: March 18, 2014

Re: Application No. 2014-7-MSV  
Applicant: Health Resources of New Jersey, LLC  
Premises: Vacant Lot on East Cedar Street Extension  
Block 7300; Lot 4.01  
Zone: R-5D

**SUMMARY OF CASE**

1. This property was the subject of a Subdivision approved by this Board by Resolution memorialized November 7, 2013 under Application Number 2013-42-MS. The Applicant has since determined that said Application failed to include a request to grant variances necessary for the proper effectuation of said subdivision and has resubmitted under this Application number.
2. The Applicant has submitted Plans which provide for the exact same subdivision proposal as was previously approved by this Board, while requesting variances for the creation of an undersized lot and for creation of more lots than are permitted in the Zone.
3. A hearing was held before this Board with respect to this matter on February 18, 2014.
4. The Applicant relied on a Minor Subdivision Map prepared by Petry Engineering, LLC, and ZL Land Surveying, LLC under date of January 21, 2014. The plans provide for a proposed subdivision of existing Lot 4.01 in to two Jots. The subject

property, presently consists of 5.5 acres and Township Ordinance 170-103E establishes a minimum lot size of 4 acres. The proposed subdivision would provide for one conforming lot of 4.6331 acres total area and one non-conforming lot which would measure 0.8673 acres in size.

5. The Applicant was represented by Barry Evenchick, Esq., of Walder, Hayden & Brogan, P.A. All taxes have been paid on the subject property and the Applicant has provided proof of notice by publication and service on all property owners within 200 feet of the premises.
6. No Members of the public appeared either in opposition to or in support of the Application.

#### **FINDINGS OF FACT**

1. The Applicant requested two variances which were:
  - A: A variance from the provisions of Township Code 170-103E which limits any property within the R-5D Zone to a maximum of two lots. The premises have previously been subdivided so that the proposed subdivision would create a third lot in the Zone, thereby violating the terms of the Ordinance.
  - B: The minimum lot size established by Township Code 170-103G(1) is 4 acres. The subdivision would create two lots which are: Lot 4.01 measuring a total of 4.6331 acres (201,817 square feet +/-), and Lot 4.03 which would measure 0.8673 acres (37,777 square feet +/-).
2. The Applicant presented the testimony of Peter Steck, admitted as an expert in planning. He presented testimony and documentary evidence establishing that the subdivision of the subject property would be consistent with the provisions of

N.J.S.40:55D-70(c)1 in that approval of the subdivision would allow the entire tract to be more easily developed and would serve the purposes of the Master Plan and Zoning Ordinance. He testified that the proposed subdivided tract has a very narrow width at its lowest elevation and that the remainder of the lot has a much lower elevation than the remainder of the tract which makes development difficult to the entire unified tract. The subdivided tract is to be acquired by the adjoining property owner and Applicant, which will be incorporated into its existing operation. Mr. Steck testified that the benefits to result from a grant of the variances requested would outweigh any detriment. There would be no substantial detriment to the public good. Mr. Steck further noted that the grant of the Application contemplates the Township Council effectuating a change in zoning so that the new Lot 4.03 would be re-zoned to be adjacent HH Zone on which St. Barnabas Hospital is located. The new Lot 4.03 would be incorporated into the development of a subcare facility or similar use.

3. The Applicant acknowledged that it is not requesting nor is it receiving any approval by the Board as to the use of new Lot 4.03 and that any future use or development of said lot would be in accordance with present and future zoning regulations.

### **CONCLUSIONS OF THE BOARD**

1. The Board concludes that the Application meets the requirements for a minor subdivision and same is hereby approved, subject to the variances as set forth hereafter.

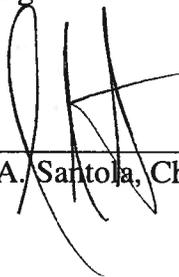
2. The Board grants the following variances:
  - A. A variance from the provisions of Township Ordinance 170-103E permitting a subdivision to create a third lot in the R-5D Zone.
  - B. A variance from the minimum lot size established by Township Ordinance 170-103G(1), requiring a 4 acre minimum lot size, whereas 0.8673+/- acres is proposed for new Lot 4.03, so that the Board approves a variance of 3.1327+/- acres.

The Board finds that the reasons set forth on the record by Peter Steck, the planner presented by the Applicant, establishes that the grant of the variances is consistent with the requirements of N.J.S.40:55D-70(c)1. The Board finds that the benefits to be derived from approving the variances will outweigh any detriment, will not have any substantial negative impact on the Zone Plan or Zoning Ordinance, and there will be no substantial detriment to the public good.

3. This approval is for the subdivision only and no approval is given as to any proposed use of the property. This approval shall not be construed to approve the use or any development of the newly created Lot 4.03 or its merger with any adjoining lot.
4. The prior Resolution of the Board memorialized on November 7, 2013 involving this property under Application Number 2013-42-MS is hereby vacated and is of no further force and effect.
5. The approval contained in this Resolution shall not be effective until a minor subdivision map or minor subdivision plat, consistent with this Resolution, has

been submitted to the Township engineer and the Planning Board secretary for final signatures.

This is a memorialization of the decision of the Planning Board of the Township of Livingston made on February 18, 2014 wherein Members Santola (as acting Chairman), Anthony, Meade, Alvarez (for absent Member Kline), and Wishnew (for absent Member Dinar) voted in accordance with the action memorialized herein. All other Members were absent or recused from participating.



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Stephen A. Santola, Chairman Pro Tempore

I certify this to be a true and accurate copy of a Resolution adopted by the Planning Board of the Township of Livingston on March 4, 2014, memorializing the decision of the Planning Board made on February 18, 2014.



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Jackie Coombs Hollis, Secretary