

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT
MEMORIALIZING RESOLUTION
Alan & Anita Van Wingerden
201 Farm Road, Pequannock Township, NJ
Block 1602, Lots 16 & 18

WHEREAS, the applicants are the owner of property located at 201 Farm Road ,
Pequannock Township, New Jersey, Block 1602, Lots 16 & 18 located in the R-87 zone district; and

WHEREAS, the applicants have requested preliminary and final subdivision approval,
which subdivision will require a use variance pursuant to N.J.S.A. 40:55D-70d(3) for a conditional
use which does not meet the conditional use standards together with dimensional variances as shown
in the chart which is attached to this resolution as Schedule A; and

WHEREAS, testimony was taken at a public hearing on December 1, 2011, at which time
the Board took sworn testimony and both the applicants and the public were afforded the opportunity
to be heard and participate in the application and to make comments; and

WHEREAS, the Board has reviewed and considered all of the evidence and the testimony
at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.
2. This is an unusual application in that no new construction is proposed and the primary purpose of the application is to rearrange the lot lines of two lots which presently contain two single family residences and a greenhouse which is approximately 183,685 sq.ft., so that the two residences will be on separate lots and the greenhouse will be on a third separate lot. All buildings are existing and are serviced by a private road known as Farm Road. The subject property contains 17.65 acres which is divided into current lot 18 which is 7.5 acres and includes an existing single family residence and approximately one-half of the greenhouse. Current lot 16 is 10.06 acres and contains a single family residence and the balance of the greenhouse, a retention pond and some open space.
3. The proposal is to adjust the lot lines to create three new lots which would be a new lot 16.01, containing an existing single family house on .66 acres, new lot 16.02, which would contain the greenhouse, retention pond and the open space on 14.5 acres and new lot 18.01 which would contain a single family residence on 2.5 acres.
4. Although the proposed lot line adjustments and the creation of a new lot appear to create numerous variances on shown on Schedule A, in reality, there is no new construction and the proposed new lot alignment is far better from the overall planning standpoint. It should be noted that under the heading of proposed lot 18.01 on Schedule A the proposed rear yard is identified as 53.1', whereas that is the rear setback to the house. However, in fact the proper rear yard setback is 19.1' which is the rear yard setback on the enclosed swimming pool.

5. The proposed arrangement is far better from the planning standpoint because it creates a separate lot for each of the three existing structures. The present lot line arrangement divides the greenhouse in an odd shape and also divides an existing barn.

6. The proposed lot line adjustment provides a proposed private right of way for the extension of the improved portion of Farm Road from the southerly sideline of the subject property to the northerly sideline of the subject property. In addition, by separate informal verbal agreement, the Township has already installed a sewer line in that portion of Farm Road. The applicants have agreed to grant the Township a written utility easement for that sewer line by extending on all of the same terms and conditions the existing utility easement which encumbers the balance of Farm Road and is recorded in the Morris County Clerk's Office in deed book 20999 at page 1573 & c.

7. The applicants' engineer and planner explained that the Farm Road private right of way is proposed to be 30' wide in order to provide a reasonable setback from the existing greenhouse. If the right of way were to have been 50' the greenhouse would be within 6' of the right of way at its nearest point. As proposed there will be approximately 26' to 29' between the east side of the proposed right of way and the west side of the existing greenhouse.

8. The Board is aware that significant agricultural and residential development has occurred along the privately owned length of Farm Road. At the request of this Board and other Township officials, the joint owners of that road have created a separate lot, 50' wide and the entire length of Farm Road except for that portion under consideration in this application which is owned by Alan and Anita Van Wingerden. All parties have entered into a reciprocal easement agreement permitting the use of Farm Road and the applicants herein are signatories to that agreement. Although the result of this application would probably be different if none of the buildings yet existed, but that is not the case now. It would constitute an enormous hardship for the applicants to bring the property into conformity with all of the requirements of the zoning ordinance and there would be no corresponding benefit to the Township. However, it is extremely beneficial to the Township to have the lot line adjustment, which is currently proposed, so that all of the existing structures will now be on individual lots which front on Farm Road, which now has a mutual written and recorded agreement for usage

9. No members of the public appeared to testify at the public hearing of this application.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicants have sustained their burden under N.J.S.A. 40:55D-70d(3) to permit a variance for the continuation of an existing conditional use which does not meet the conditional use standards of the ordinance. The subject property is only one small part of a large area in the Township devoted to family farms on contiguous properties along Farm Road. The sole purpose of this application is to revise the lot lines so that they do not run through the middle of buildings and more appropriately divide the property for the uses which currently exist. Although the Board might

not grant approval to a new conditional use with the same variance, there is no benefit to the Township and it would impose a substantial and unreasonable hardship on the applicants if full compliance with the ordinance were required.

2. The following summarizes the status of the applicants' compliance with the conditional use requirements in the Township code (Subsection 189.07.020 D.) for greenhouses, propagating and nursery businesses:

1. Minimum lot area of 6 acres.
2. A front yard setback of 50 ft. in depth. **Not met**
3. Side and rear yards equal in depth to the height of the building or 30 ft., whichever is greater. **Not met**
4. A lot width of 200 ft.
5. A twenty foot planted buffer. **Not met**
6. No driveway shall be any closer than 25 ft. to any side or rear property line. **Not met**
7. A 10 ft. planted buffer to adjacent industrial or commercial (zoned or used) property **Not met**
8. No nursery stock shall be closer than 10 ft. to side or rear property or closer than 20 ft. to any street.
9. Maximum building coverage 30%. **Not met**
10. All permanent structures require a building permit and site plan approval.
11. No structure may exceed 35 ft. in height.
12. Where there are wholesale or retail sales of products, only items that have been grown on the premises for at least ½ of their life may be sold on premises. **Unknown**
13. For retail sales, one-parking space for each acre under cultivation or for each 5,000 sq. ft. of area within the greenhouse. **Not applicable**
14. **Not applicable**

3. The same reasoning applies to the requested dimensional variances created by the lot line adjustment. All the structures are existing, all of the dimensions are existing and the only thing which is changing is the technical dimensional distances which are the result not of any new

construction, but of the relationship between the new lot line an existing structures. Based upon a careful examination of the subdivision map, the is no way the dimensional variances could be diminished. In fact, the applicants' engineer testified that significant time and thought went into a lot line arrangement which would have added sufficient additional open space to proposed lot 16.01, but the perimeter of that lot would have been tortuously gerrymandered and simply did not make sense from a planning stand point. Therefore, the Board concludes that the applicants have sustained their burden under N.J.S.A. 40:55D-70c(2) in that the benefits of granting the variances described on Schedule A substantially exceed any detriment which there may be and the Board finds that there is no detriment.

4. Subject to the granting of the variances referred to above this application meets all municipal requirements for approval of preliminary and final major subdivision approval.

5. The requested relief including all variances can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment of the Township of Pequannock this 19th day of January, 2012 that it now memorializes, ratifies and adopts the action taken at its meeting on December 1, 211 granting the application of Alan & Anita Van Wingerden for preliminary and final major subdivision approval with all of the variances showed on Schedule A and the use variance for a conditional use which does not meet the conditional use requirements, pursuant to N.J.S.A. 40:55D-70(d)3, subject to the following condition(s):

1. The subdivision map shall be amended in accordance with the discussions at the public hearing including the addition of the size of the greenhouse, correction of the variance chart of the subdivision map to show the rear yard of proposed lot 18.01 as 19.1' instead of the 53.1' and remove the animal enclosure from the plan.
2. The applicant shall prepare and submit to the Township attorney for review and approval a written grant of utility easement in substantially the same form as the utility easement recorded in book 20999 at page 1573 & c which relates to the balance of the private road known as Farm Road. That easement shall be subject to such revisions and modifications as may be reasonably required by the Township attorney. The applicant will record that easement immediately upon receipt of a fully executed document from the Township attorney.
3. The description to be used on that easement document will be the description of the 30' wide private right of way shown on the subdivision map approved by this resolution.
4. Final approval of the preliminary and final subdivision shall remain subject to the review and approval by the board planner and the Township engineer.

5. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on January 19, 2012.



Linda Zacharenko, Secretary

Schedule A

Regulations R-87 District	Required	Proposed 16.01	Proposed 16.02	Proposed 18.01
Lot Size (acres)	87,000 ac	28,880 *	631,490	108,208
Lot Width/Frontage (ft)	200 ft.	193.5 ft. *	50.3 ft*	2 ft. *
Lot Depth	435 ft.	163 ft. *	900 ft.	184 ft. *
Front Yard (ft)	75 ft.	70.1*	55.9*	52.3*
Side Yard (ft)	25 min / 75 comb.	50/102.7 ft	5/255 ft. *	58.8/>75 ft
Rear Yard (ft)	75 ft.	55.8*	307.3	53.1* should be 19.1
Building Sty/Height (ft)	2.5 str./35 ft.	2 str / <35 ft	1 str / <35 ft	2 str / <35 ft
Bldg. Coverage (%)	8%	5%	30.4%*	9.5%*
Imperv. Coverage (%)	20%	20%	47.5%*	16.3%

*Variance requested