

QUINTON TOWNSHIP PLANNING BOARD

RESOLUTION NO.: 2023-10

INTERPRETATION OF QUINTON TOWNSHIP LAND USE ORDINANCE IN RESPONSE TO ZONING OFFICER INQUIRY

(Code § 170-24.G. re: P-BR district vacant lot “*in existence* on June 19, 2007”)

(Revised 01.10.23)

WHEREAS, on January 6, 2023, the Quinton Township Zoning Officer and the Quinton Township Planning Board Solicitor conferred about the need for an interpretation of Quinton Township Code § 170-24.G. (hereafter “subpart G”) in connection with a property owner’s inquiry about single-family development of a two-acre vacant lot in the P-BR district that would meet the “grandfathered” width, depth, setback, and improvement coverage requirements of subpart G if the lot “*was in existence* in its current configuration on June 19, 2007”; and

WHEREAS, based on information provided by the property owner and the property owner’s attorney, the Zoning Officer and the Planning Board Solicitor determined that the lot in question was *approved* in its current configuration by minor subdivision granted by the Quinton Township Planning Board on January 9, 2007 as a conforming lot with no variances, which approval was memorialized in the Board’s Resolution No. 07-02, dated February 27, 2007, but that the lot was not actually *created* in its current configuration pursuant to such approval until the minor subdivision deed was actually signed on June 26, 2007, and recorded on July 11, 2007, in the Salem County Clerk’s office, such dates being subsequent to June 19, 2007; and

WHEREAS, the Planning Board Solicitor has opined that, given the overall purposes of Code § 170-24, it is reasonable to conclude that the “grandfathered” allowances of subpart G should be available to lots that were lawfully “*in existence*” as of June 19, 2007, and also available to lots that were lawfully *approved* by the Planning Board as of June 19, 2007, even if such approved lots were not actually “*created*” by duly recorded instrument until after June 19, 2007, as long as such instruments were placed on record prior to expiration of the approvals in question; and

WHEREAS, N.J.S.A. 40:55D-47.d. provides that a minor subdivision approval will expire 190 days following adoption of the Planning Board’s resolution memorializing the approval unless the instrument that effectuates the minor subdivision is recorded or filed within that 190-day expiration period, and

WHEREAS, given the dates set forth above, it is apparent that the subject lot was lawfully created by a minor subdivision deed that was signed and recorded within 134 days after the Planning Board’s resolution of approval was adopted, and therefore within the applicable 190-day expiration period; and

WHEREAS, the Planning Board Solicitor presented this issue to the Planning Board at the Board’s January 10, 2023 meeting, at which the Board reviewed and discussed subpart G in the context of the above cited facts and circumstances; and

WHEREAS, the Board found and concluded as follows:

1. The purpose of Subpart G is to grant relief from all current P-BR bulk and area regulations for construction or expansion of a single-family dwelling and/or accessory structures if a currently noncompliant lot conformed with all P-BR district regulations in effect as of June 19, 2007, if the lot has not changed since that date.
2. Given the overall purposes of Code § 170-24, the Board cannot conceive of a valid legal- or land-use-planning-based reason as to why a two-acre lot that was approved just prior June 19, 2007 as conforming with all then-applicable P-BR requirements, and which was duly created by recorded deed prior to expiration of that approval, but after June 19, 2007, should not be entitled to the same subpart G relief that would apply if the minor subdivision deed had been recorded before June 19, 2007.

NOW, THEREFORE, BE IT RESOLVED by the Quinton Township Planning Board that, pursuant to the Board's powers as set forth in *N.J.S.A. 40:55D-70.b.*, the Board hereby interprets Quinton Township Code § 170-24.G. as applying to "any vacant undeveloped lot in the P-BR district that was in existence in its current configuration on June 19, 2007, **and also to any vacant undeveloped lot in the P-BR district whose current configuration was approved by the Quinton Township Planning Board on or before June 19, 2007, even if such lot was not actually created by instrument of record pursuant to the Planning Board approval until after June 19, 2007, but only if the recording or filing occurred within the applicable expiration period as set forth in the New Jersey Municipal Land Use Law.**"

BE IT FURTHER RESOLVED, that the Planning Board Secretary is hereby directed to provide copies of this resolution to the Quinton Township Clerk, Zoning Officer, Construction Official, and Township Solicitor within 10 days following the date of this resolution.

BE IT FURTHER RESOLVED, that the Planning Board Secretary shall cause the following form of notice to be published in *The South Jersey Times* as soon as practicable following the adoption of this resolution:

QUINTON TOWNSHIP PLANNING BOARD


NOTICE OF DECISION

TAKE NOTICE that on January 10, 2023, the Quinton Township Planning Board adopted Resolution 2023-__ to memorialize its January 10, 2023 decision to interpret the "grandfathered" provisions of Quinton Township Code § 170-24.G. as applying to "any vacant undeveloped lot in the P-BR district that was in existence in its current configuration on June 19, 2007, and also to any vacant undeveloped lot in the P-BR district whose current configuration was approved by the Quinton Township Planning Board on or before June 19, 2007, even if such lot was not actually created by instrument of record pursuant to the Planning Board approval until after June 19, 2007, but only if the recording or filing occurred within the applicable expiration period as set forth in the New Jersey Municipal Land Use Law." The resolution is on file at the Quinton Township Planning Board Office at 10 Cottage Avenue, Quinton, New Jersey 08072, and is available for public inspection by appointment only by contacting Bonita K. Bell, Planning Board Secretary, at (856)

362-0753 or (856) 935-8404, or by writing to her by mail c/o Quinton Township Planning Board, 10 Cottage Avenue, P.O. Box 227, Quinton, New Jersey 08072, or by email at qntwpplanbd@comcast.net.


The undersigned Chairperson of the Quinton Township Planning Board hereby certifies that the above is a true copy of a resolution adopted by said Board on **January 10, 2023** to memorialize action taken on **January 10, 2023**.

Attest:



Bonita K. Bell, Secretary
Quinton Township Planning Board

Wm. L. Allen
Solicitor



John Allen, Chairperson
Quinton Township Planning Board