

MJD:DS
1/24/1983

IN THE MATTER OF THE APPLICATION) VARIANCE, FINAL SUBDIVISION
OF HOPPER RIDGE, INC. FOR VARIANCE) AND PRELIMINARY SITE PLAN
RELIEF, FINAL SUBDIVISION APPROVAL) APPROVAL RESOLUTION
AND PRELIMINARY SITE PLAN APPROVAL)

WHEREAS, Hopper Ridge, Inc., hereinafter referred to as "applicant" has filed with this Planning Board an application for development seeking variance relief, final subdivision approval and preliminary site plan approval as to premises hereinafter described; and

WHEREAS, reports on said application for development and accompanying engineering drawings have been received by this Planning Board from its planning consultant, from its attorney, from the division of engineering and from various department directors; and

WHEREAS, the said application for development was the subject of public hearings held by this Planning Board on September 21st 1982, October 19th, 1982, November 16th, 1982, and December 21st, 1982,

NOW, THEREFORE, be it resolved that this Planning Board does hereby make the following findings of fact.

1. All persons required to be served with notice of the hearings were duly served and proof thereof has been filed with the board.

2. The premises in question consist of fifteen lots or portions thereof as shown on various engineering drawings hereinafter referred to; said premises in question are located in the R-1A residence zone district and under the provisions of Chapter 35, Article X, Section 35-80.1 of the Village Code, single family attached residential units may be constructed in said zone district, as permitted conditional uses, providing certain

enumerated conditions set forth therein, which conditions are incorporated herein by reference as if set forth at length herein in full, are met and providing said construction is the subject of site plan approval by this Planning Board.

3. Applicant now seeks, from this Planning Board:

- A. To re-subdivide lots 14, 15 and 16 in block 4101, lots 2, 3, 4, 28, 29, 30, 31 and 32 in block 4104, and lots 8, 9, 38 and 39 in block 4105 (i.e. fifteen lots - the "premises in question") into four lots as shown on the major subdivision map drawing hereinafter referred to; and
- B. To secure variance relief from the provisions of Article X, Section 35-85.3(e) of the Village Code which requires that every lot shall contain a minimum lot area of fourteen thousand square feet measured within one hundred forty feet of the front street side line and a minimum lot width of one hundred feet, since proposed lot 8:01 as shown on the major subdivision map drawing hereinafter referred to is to have a lot width on the westerly side of South Irving Street of only 79.73 feet and a lot area within one hundred forty feet of the street of only 11,031 square feet; and
- C. To obtain preliminary site plan approval for the construction of improvements on the premises in question as hereinafter described.

4. As shown on the site plan drawings hereinafter referred to, applicant proposes to construct nine buildings which will contain thirty-six attached single family residences containing approximately three thousand square feet of habitable floor area each, five of said buildings to be "downhill" buildings which will have driveways and entryways one-half level higher than the limited common area in the rear and four of said buildings to be said "uphill" buildings which will have limited common area in the rear one-half level higher than driveways and entryways, the applicant intending to terrace the premises in question to take advantage of natural sloping conditions thereof. Private interior roadways twenty-four feet in width (two traffic lanes twelve feet in width) will be installed and a combination of garage parking, driveway parking and separate visitor parking areas will provide an average of more than four and one-half parking spaces for the

said thirty-six attached single family residences. Testimony submitted by applicant tended to establish that relatively modest traffic flows would be generated by the proposed project in which applicant proposes to provide an emergency access location in the northeast corner of the site with a connection to Hopper Avenue; unwarranted vehicular use of said emergency access drive will be prevented by the use of plantings at the connection to Hopper Avenue, which plantings can be overridden by emergency vehicles.

Surface water run-off from the proposed improvements will be collected by a new storm sewer system to be installed by applicant which has been designed to handle a twenty-five year storm and two proposed storm water detention ponds to be stocked with native fish are also proposed by applicant; the banks of the ponds would be sloped so as to provide for gradual increase for safety purposes.

The Village of Ridgewood plans to construct a ten inch diameter force sanitary sewer main which will run along Durar Avenue through the premises in question to Hopper Avenue, and testimony submitted on behalf of applicant tended to establish that the proposed force main plans are compatible with the project and are in no way inhibited by the project; applicant proposes easy access for maintenance and repair of the proposed force main since the same is to be constructed along the proposed interior roadways. In this connection applicant also proposes to install a sewage pump and a sanitary sewer holding tank to retain sewerage at such times as the main sewage trunk line reaches capacity.

A potable water supply for the premises in question will be served by the Village of Ridgewood Water Department by the extension of the Hopper Avenue water main northerly into the premises in question; applicant indicated that it would grant the Village of Ridgewood Water Department access for the maintenance

of water mains which will serve the premises in question.

Utilities will be installed underground, telephone service to be supplied by New Jersey Bell Telephone Company and natural gas and electric service to be supplied by Public Service Electric and Gas Company.

Testimony submitted on behalf of the applicant tended to establish that noise levels on-site and off-site would be acceptable and the change in noise levels during construction would be relatively negligible.

Six lighting locations will be installed in Daniel Court, Kira Lane and Durar Avenue, (private interior roadways of the premises in question), and a swimming pool and ancillary bath-house building (fifteen feet in height, twenty feet in width and fifty feet in length) will also be constructed on the premises in question.

5. Also as shown on the site plan drawings hereinafter referred to, applicant, in order to enable it to construct and install the said improvements on the premises in question, requires that public rights in portions of Durar Avenue and Hopper Avenue, which portions are "paper streets" in the sense that they have not been improved and have not been opened to the public, be vacated and accordingly, applicant has requested that this Planning Board recommend to the Village Council that an appropriate ordinance be passed vacating and extinguishing public rights in said unopened portions of said streets; accordingly, reference is made to a certain "resolution recommending to the Village Council adoption of an ordinance relinquishing and extinguishing public rights in certain unopened portions of Durar Avenue and Hopper Avenue" passed by this Planning Board on this date, the terms of which are hereby incorporated herein by reference as if set forth at length herein in full.

6. Also as shown on the site plan drawings hereinafter referred to, during the course of the construction and installation of said improvements on the premises in question, applicant proposed to relocate and bring in fill onto the premises in question in an amount of 7,800 cubic yards and accordingly, pursuant to the provisions of Section 26-22 of the Village Code and N.J.S 40:55D-25 (b) (3) of the Municipal Land Use Law, has requested that this Planning Board also recommend to the Village Council that a major soil permit be issued to applicant; accordingly, reference is also made to another "resolution reflecting recommendation made to Village Council pursuant to Section 26-1 et seq. of Village Code" passed by this Planning Board on this date, the terms of which are also hereby incorporated herein by reference as if set forth at length herein in full.

7. Also as shown on the site plan drawings hereinafter referred to, applicant proposes to accomplish the construction and installation of said improvements on the premises in question in three phases and intends to sequentially request final site plan approval from this Planning Board as construction and improvement work in each of said three phases is completed.

The phased construction and installation work is proposed to be accomplished by applicant as follows:

In Phase I are to be constructed:

Durar Avenue Extension
Durar Avenue improvements
Detention ponds installations
Pool and bathhouse
Emergency access
Building #1 and Building #2
Utilities, planting, fencing, curbing, paving and sidewalks appurtenant to building #1 and building #2.

In Phase II are to be constructed:

Building #3, Building #4, Building #5 and Building #6
Utilities, planting, fencing, curbing, paving as to Daniel Court.

In Phase III are to be constructed:

Building #7, Building #8, Building #9
Utilities, planting, fencing, curbing and paving as to
Kira Lane.

8. Applicant also proposes to create a condominium form of ownership as to the premises in question pursuant to the provisions of N.J.S. 46:8B-1 et seq (the New Jersey Condominium Act) under which the thirty-six attached one-family residences and certain appurtenant improvements thereto will be sold to owners who will also own, in common with all of the owners of the other thirty-six attached one-family residences, an undivided percentage interest in real and personal property which will comprise the condominium project other than the attached one-family residences and appurtenant improvements themselves (i.e., the "common elements" and who, through a condominium association will be required to maintain said common elements. In this connection, it is to be noted that, as shown on the said site plan drawings hereinafter referred to, "limited common areas" will be devoted exclusively to the use and enjoyment of specific attached one-family residences to the exclusion of other such residences, but "open space" shall constitute part of the said common elements as provided in the Master Deed which will be executed, delivered and recorded in order to create the said condominium form of ownership in accordance with said governing statute.

9. Also as shown on the site plan drawings hereinafter referred to, applicant also proposes to execute and deliver deeds of easement conveying to the Village of Ridgewood

- A. an easement within the confines of Kira Lane, Daniel Court and Durar Avenue for watermain and fire hydrants installation and for access thereto for purposes of repair and maintenance thereof; and

- B. an easement within the confines of Durar Avenue and Hopper Avenue for the said ten inch diameter force sanitary sewer main as referred to in paragraph 4 hereof and for access thereto for purposes of repair and maintenance thereof; and
- C. an easement fifteen feet ⁱⁿ width throughout for the use and maintenance of an existing sanitary sewer line in Hopper Avenue; and
- E. an easement ten feet in width throughout for the use and maintenance of an existing storm water drain in Hopper Avenue; and
- F. an easement twelve feet in width throughout for an emergency access drive.

Applicant also proposes to execute and deliver deeds of easement to public utilities to the extent that such public utilities may reasonably require the same.

10. Applicant estimates that the time period required to complete the construction and installation of improvements on the site will be approximately two years to thirty months from the date the construction and installation work is initially commenced.

11. During the course of the said public hearings held by this Planning Board as aforesaid, applicant agreed that the time period in which this Planning Board would take "official action" on applicant's application for development would be extended to the date of the passage of this resolution.

BE IT FURTHER RESOLVED that this Planning Board does hereby make the following determinations:

DETERMINATION A: The foregoing facts are made a part hereof as if set forth at length herein in full.

DETERMINATION B: As shown on the current tax map of the Village, lot 8 in block 4105 referred to in paragraph 3 subparagraph B of the findings of fact of this resolution of which lot proposed lot 8:01 referred to therein now constitutes a part, now has a lot width on the westerly side of South Irving Street of only 79.73 feet and now contains a slightly lesser width at its rear property line; therefore said lot 8 as it now exists does not now meet the applicable minimum lot width and minimum lot area zoning requirements

referred to in said subparagraph. Since testimony submitted on behalf of applicant established that no additional property may be acquired in order to make proposed lot 8:01 conforming with respect to said minimum lot width and minimum lot area zoning requirements and since the subdivision of lot 8, as shown on the subdivision drawing hereinafter referred to, would not affect its lot width or its square foot area contained within one hundred forty feet of the westerly line of South Irving Street, in the opinion of this Planning Board denial of applicant's request for variance relief would prohibit the development of the premises in question as proposed by applicant and therefore would constitute an undue hardship upon the applicant; in addition, said subdivision, as proposed by applicant, would create a rear lot line essentially in conformity with the rear lot lines of other lots located on the westerly side of South Irving Street and accordingly it is also the opinion of this Planning Board that the granting of the variance relief requested will not substantially impair the intent and purpose of the Village Zoning Ordinance and Village Master Plan.

DETERMINATION C: In view of the fact that on-site improvements proposed to be constructed and installed by applicant as reflected on the site plan drawings hereinafter referred to are intended to be essentially private in nature, in the opinion of this Planning Board, final subdivision approval of applicant's proposed major subdivision so as to resubdivide fifteen lots into four lots as recited in subparagraph A of paragraph 3 of the findings of fact of this resolution may now be granted, notwithstanding the fact that said on-site improvements have neither been constructed and installed nor have they been the subject of performance guarantees (reference: Article IX, Sections 35-65, 66 and 70 of the Village Code).

DETERMINATION D: With the exception of the foregoing subject of applicant's request for variance relief, in the opinion of this Planning Board, applicant's said proposed major subdivision as shown on the subdivision map hereinafter referred to meets all of the applicable requirements of the Village Code and therefore final subdivision approval may be granted subject to the passage of a street vacation ordinance as hereinafter provided and, similarly, subject to said exception, in the opinion of this Planning Board, applicant's site plan drawings hereinafter referred to, meet all applicable requirements of the Village Code and therefore preliminary site plan approval so as to permit the development of the premises in question as herein described, as a permitted conditional use in accordance with the provisions of Article X, Section 35-80.1 of the Village Code, may now be granted subject, however, to the ten conditions hereinafter stated.

BE IT FURTHER RESOLVED that this Planning Board does hereby accordingly GRANT:

- (i) pursuant to and in accordance with the provisions of Article III, Section 35-8(e)(1) of the Village Code and N.J.S.40:55D-25(6) of the Municipal Land Use Law, applicant's request for variance relief from the provisions of Article X, Section 35-85.3e of the Village Code with respect to said minimum lot area and minimum lot width zoning requirements as applied to said lot 8:01 referred to in subparagraph B of paragraph 3 of the findings of fact of this resolution; and
- (ii) pursuant to Article X, Section 35-8B of the Village Code and N.J.S.40:55D-25 of the Municipal Land Use Law, applicant's request for final subdivision approval of the said subdivision map hereinafter referred to, subject, however, to the final passage by the Village Council of the said ordinance relinquishing and extinguishing public rights in certain undeveloped portions of Durar Avenue and Hopper Avenue as recited in paragraph 5 of the findings of fact of this resolution; and
- (iii) pursuant to the provisions of Article IX, Section 35-71(d) of the Village Code and N.J.S.40:55D-25 of the Municipal Land Use Law, applicant's request for preliminary site plan approval as to the site plan drawings hereinafter referred to, said preliminary site plan approval, however, to be subject to the following ten conditions:

Prior to the commencement of construction and installation of improvements on the premises in question:

1. An ordinance will have been finally passed by the Village Council relinquishing and extinguishing public rights in certain unopened portions of Durar Avenue and Hopper Avenue as referred to in paragraph 5 of the findings of fact of this resolution, subject, however, to applicant complying with such terms and conditions as the Village Council may hereafter impose upon the applicant with respect thereto; and
2. The Village Council also shall have granted to applicant a major soil permit in accordance with the provisions of Section 26-1 et seq of the Village Code pursuant to the resolution of this Planning Board referred to in paragraph 6 of the findings of fact of this resolution, subject, also, however, to applicant complying with such terms and conditions as the Village Council may hereafter impose upon the applicant with respect thereto; and
3. Applicant also shall have obtained approval (or waiver thereof) from the New Jersey Department of Environmental Protection with respect to the design of the storm water detention ponds and drainage ditches and the design of the sanitary sewer holding tank, all of which are referred to in paragraph 4 of the findings of fact of this resolution; and
4. Applicant also shall have obtained approval (or waiver thereof) from the Bergen County Planning Board with respect to the subdivision map and site plan drawings hereinafter referred to.

Prior to final site plan approval as to any and all of the three phases of the proposed development referred to in paragraph 7 of the findings of fact of this resolution:

5. Applicant also shall satisfy this Board that all on-site improvements in the particular phase for which final site plan approval is then requested either have been completely constructed and installed or are then subject to performance guarantees as provided in Article IX, Section 35-65, 66 and 70 of the Village Code to the end that this Planning Board shall be satisfied that the particular phase of development for which final site plan approval is then requested shall be self-sustaining and self-functioning with respect to utility services, ingress and egress, parking facilities and desirable physical characteristics so that each of the three phases of development will be properly related to the other two phases of development and accordingly a balanced use of the entire premises in question shall be accomplished in accordance with the preliminary site plan drawings hereinafter referred to.

6. Applicant also shall have installed the sanitary sewer holding tank to retain sewerage at such times as the main sewerage trunk line reaches capacity.
7. Applicant also shall execute and deliver deeds of easement acceptable in form and content to the attorney for this Planning Board and acceptable for recording in the Bergen County Clerk's Office, which deeds, by their respective terms, will dedicate to the Village, free of liens and other encumbrances as evidenced by certificates of title to be delivered to said attorney, the five easements referred to in paragraph 9 of the findings of fact of this resolution.
8. Applicant also shall deliver to the attorney for this Planning Board for his review and approval (i) a proposed program for creating a homeowner's organization, which as provided in Article IX, Section 35-80.1(d)8 of the Village Code, will own and maintain common open space for the benefit of the owners and residents of the premises in question; (ii) a proposed program for providing for the manner in which the said common open space and other common elements will be maintained in "reasonable condition"; (iii) a proposed plan relating to the owners being members of the homeowner's organization, the owners electing a board of trustees of the homeowner's organization and the board of trustees electing officers of the homeowner's organization; (iv) a proposed plan relating to the homeowner's organization maintaining the said detention pond, drainage ditches, common elements and common open spaces and the consequences of the failure of said organization to so maintain the same to the end that the provisions of said Article IX, Section 35-80.1(d)(18) of the Village Code will be adhered to; said programs and plans may be reflected in the Master Deed referred to in paragraph 8 of the findings of fact of this resolution to the extent that applicant's attorney may deem appropriate.
9. Applicant also shall execute and deliver a developer's agreement acceptable in form and content to the attorney for this Planning Board under which applicant covenants and agrees, inter alia, to construct and install the improvements on the premises in question in accordance with the site plan drawings hereinafter referred to and agrees to comply with the foregoing conditions of site plan approval.

After final site plan approval is granted by this Planning Board as to any or all of the three phases of development:

10. No buildings or other structures shall be constructed on the "open space" areas shown on the site plan drawings hereinafter described unless specific approval thereof is granted by this Planning Board and by any other governmental authority having jurisdiction thereof.

The subdivision map which is the subject of final major subdivision approval herein granted is a map entitled "Major Subdivision Hopper Ridge, Inc." prepared by Andrew Marshall, Jr. dated June 24, 1982 as revised to January 10, 1983.

The preliminary site plan drawings which are the subject of preliminary site plan approval herein granted are entitled "Project Hopper Ridge Townhouses Ridgewood, N.J. Client Hopper Ridge, Inc. drawing title Preliminary Site Plan" prepared by Barry Poskanzer, AIA and Andrew Marshall, Jr., professional engineer, as revised to January 11, 1983, consisting of thirteen drawings bearing drawing numbers SP-1 through SP-13 inclusive.

M.J.D.

Official monthly public meeting
February 15th, 1983.