

STAFF REPORT COMMENTS

Address: 2 High Street

Application: PB-21-259 – Minor Subdivision with (c) – variances for lot min lot width & lot avg

	<u>No Comments</u>	<u>Report Attached</u>	<u>Not Submitted</u>	<u>No Objections</u>	<u>Not Required</u>
Christa Anderson, Zoning Officer		✓			
Eric Evers, Director/Fire Chief	✓				
Steven Zagorski, Police Chief				✓	
Engineering Division		✓			
Ralph Maritato, Construction Official				✓	
John Linson, City Forester		✓			
Board of Health	✓				
Historic Preservation Commission <i>TBS</i>					
City Planner-Burgis (if required)		✓			
Environmental Commission (if required) <i>TBS</i>					

Sent to applicant / attorney on: _____

(circle one)

Due Back: _____

COMMUNITY SERVICES

TO : Planning Board members
FROM : Christa Anderson, Zoning Officer CA
DATE : July 19, 2022
SUBJECT : Planning Board application #PB-22-259
2 High Street
Vassa Real Estate, LLC
2 lot Minor Subdivision with variances

COPY TO: File

The application is filed as a direct application with no prior zoning review. The applicant, Vassa Real Estate, LLC, is the contractor purchaser of existing Block 2802 Lot 15 known as 2 High Street. The applicant proposes a minor subdivision to create a new corner lot which would be known as Block 2802 Lot 15.01, with an address of 121 Prospect Street as determined by the City of Summit Tax Assessor, Timothy O'Connor. The applicant has used "proposed Lot 15.01" and "proposed Lot 15.02" which designations do not agree with the lot numbers that will be assigned by the Tax Assessor should the application be approved.

The applicant has submitted three sheets of engineering plans prepared by Michael T. Lanzafama, PE and PLS, of Casey & Keller with dates of 09-07-21 and 08-26-21. The actual proposed subdivision plan is shown on Sheet 3. Sheet 3 also provides the neighborhood averaging calculations for lot area, lot width and front yard setback.

Proposed New Lot 15, 2 High Street:

The existing lot area is 64,549 square feet which far exceeds the required lot area in the R-15 Zone of 15,000 square feet or 18,000 square feet for a corner lot. Corner lots are required to be 20% larger than the minimum requirement for the zone. The applicant proposes to reduce the lot area by 22,754 square feet resulting in a new lot area of 41,795 square feet. The proposed new lot area meets the minimum requirement in the R-15 Zone and also meets the average lot area for the neighborhood which is 24,986 square feet. The proposed new lot width meets the minimum requirement for the R-15 Zone as well as the average lot width for the neighborhood which is 107.22 feet. The existing front yard setback of 54.93 feet meets the average for the neighborhood which is 54.2 feet. I have confirmed that all requirements of the Schedule of Space Regulations will remain conforming. The location of the inground pool and patio area will also be conforming.

Proposed New Lot 15.01, 121 Prospect Street:

The applicant proposes a new corner lot having a lot area of 22,764 square feet whereas the neighborhood average lot area is 29,288 square feet. **A variance for insufficient lot area is required as noted in the application.** The proposed lot area does conform to the minimum for the R-15 Zone and the requirement for a corner lot to be at least 20% larger than the minimum lot area for the zone. **A variance is also required for the proposed lot width on High Street of 92.73 feet** whereas the neighborhood average width on High Street is 107.22 feet. The proposed lot width facing Prospect Street is conforming to the neighborhood average. The proposed front yard setback of a new house on proposed Lot 15.01 meets the average for the neighborhood which is 41.8 feet.

The applicant has provided one sheet of preliminary architectural plans for new Lot 15.01 prepared by Danial Dubinett, RA, dated 04.12.2022, should the subdivision application be approved. Based on the preliminary architectural plans provided, the proposed new single-family house itself will conform to all requirements of the Schedule of Space Regulations. **The patio shown on Sheet 3 of the engineering plans does not conform to the required side yard setback of 15 feet. A variance is required to construct the patio shown on Sheet having a side yard setback varying from 10 feet to 12 feet** whereas 15 feet is required.

Existing circular driveway/2 curb cuts:

The applicant has provided a copy of a prior Zoning Board resolution memorialized October 6, 2008, which granted approval to a prior owner to modify a then-existing circular driveway with 2 curb cuts on different streets. The applicant proposes to retain both curb cuts and record a 17 foot wide driveway easement for which no explanation or justification is provided. **A variance is required for 2 curb cuts on proposed Lot 15.01, one of which leads to a driveway on the neighboring property, 2 High Street.** The Development Regulations Ordinance was revised and adopted in December of 2021 permitting a property having a width of at least 125 feet to have a circular driveway with 2 curb cuts; however, what the plans propose is not a circular driveway for new Lot 15.01.

Copy To:	
<input type="checkbox"/> PL/Zoning Chm./Atty.	<input type="checkbox"/> Applicant
<input type="checkbox"/> Boards Members	<input type="checkbox"/> Applicant's Atty.

COMMUNITY SERVICES

TO: Christa Anderson, Zoning Officer
 Eric Evers, Director/Fire Chief
 Steven Zagorski, Police Chief
 Engineering Division
 Burgis Associates *(if applicable)*

Ralph Maritato, Construction Official
 John Linson, City Forester
 Health Department
 Tom Conway, Chair, HPC
 Environmental Commission *(if applicable)*

FROM: Chris Nicola, Land Use Assistant, DCS

DATE: July 6, 2022

LOCATION: 2 High Street **BLOCK:** 2802 **LOT:** 15

APPLICATION: Vassa Real Estate, LLC **FILE NO.:** PB-21-259

PROJECT: Minor subdividsion plan with (c) – variances for min lot width & lot avg

Attached is a copy of the plans and application for the subject property. Please review this proposal and return a copy of this memo with your comments prior to the date indicated below. Attach additional pages or reports, if necessary.

Please respond by: **July, 20 2022** (Please email cnicola@cityofsummit.org if you are unable to meet this date.)

COMMENTS:

No comment (JM) _____

Eric P. Evers **Fire Chief** **July 18, 2022**

DO NOT WRITE BELOW THIS LINE, PLEASE

____ Zoning; ____ Fire; ____ Police; ____ Engineer; ____ Construction Official; Forestry; ____ Board of Health; ____ HPC

Copy To:	
⊖ PL/Zoning Chm./Atty.	⊖ Applicant
⊖ Boards Members	⊖ Applicant's Atty.

COMMUNITY SERVICES

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Steven Zagorski, Police Chief
Engineering Division
Burgis Associates (if applicable)

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Environmental Commission (if
Applicable)

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Please respond **July 20, 2022** (Please email cnicola@cityofsummit.org if you are unable to meet this date.)
by:

COMMENTS: No OBJECTIONS - LT. DAVID RICHEL

(NAME) **PRINT PLEASE** (PRINT TITLE) (DATE)

Memorandum

To: Planning Board

From: Christopher L. Dour, P.E., P.P.

Date: July 13, 2022

Subject: Vassa Real Estate, LLC
2 High Street
Block 2802, Lot 15
Summit, Union County, NJ

Summit No.: PB-21-259

We have reviewed the application and associated submissions prepared by Salvador Garcia of Vassa Real Estate, LLC, for the subject property as referenced below:

- a. Application for Development- Worksheet dated 05/16/2022;
- b. Application to Planning Board dated May 16, 2022;
- c. Planning Board Application Checklist dated October 11, 2021, resubmitted 5/16/22;
- d. Application for Classification of Sketch or Preliminary Subdivision Plat, signed;
- e. COVID-19 New Application Waiver dated 05/16/2022;
- f. Appendix E-12, Minor Subdivision Approval Checklist dated October 11, 2021, resubmitted 5/16/22;
- g. Ownership Disclosure Affidavit; signed, dated 5/16/2022;
- h. Tax Map Sheet and 200 Ft Lot Areas;
- i. Tax Assessor Memo with Partial Map, undated;
- j. Property Photos, total of five (5), source 2021 Google, undated;
- k. Resolution of Approval ZB-08-1354, approved August 4, 2008, adopted October 6, 2008;
- l. Title Survey of Tax Lot 15 in Tax Block 2802 situated in City of Summit, Union County, New Jersey, prepared by Thomas S. Benjamin, PE & LS of Benjamin and Wizorek, Inc., signed, dated April 21, 2014; and
- m. Plan entitled, "Minor Subdivision, 2 High Street, Tax Lots 15, Block 2802, City of Summit, Union County, New Jersey", consisting of four (4) sheets, prepared by Michael T. Lanzafama, PE, PLS of Casey & Keller Incorporated, signed, dated 09/07/2021, last revised 03/23/2022.

Based on our review of the above-referenced documents, this office offers the following comments:

1. The 64,549-square foot (1.48-acre) property is located at the northwest corner of High Street and Prospect Street.
2. The property is in the R-15 Zone, with surrounding properties in the same Zone.
3. The Applicant has submitted a Land Title and Topographic Survey, and the property slopes from a low of 80-feet in the far northwest corner to a high of 104-feet at the intersection of High Street and Prospect Street. The Applicant shall confirm in testimony the presence of any steep slopes.
4. The property is improved with a 2 1/2-story single-family home, driveways with access from both High Street and Prospect Street, side-facing attached garages, pool and patio surround, walkways, and related site improvements.
5. The property is somewhat square in shape with 234-feet of frontage on Prospect Street, 272-feet along High Street, a westerly property line of 259-feet, and 254-feet along the northern property line.
6. The Applicant is proposing to subdivide the property to create two (2) lots, maintain and renovate the existing home, no proposed changes to site improvements including the pool, driveway access from High Street, and through creation of an easement, maintain driveway access from Prospect Street as well.
7. The Applicant has not noted a Limit of Disturbance but notes in their application that "...no construction is proposed at this time." The Applicant; however, has provided a "Proposed New Construction" on Sheet V-1 and shall provide testimony.
8. The Applicant is proposing the following:
 - Proposed Lot 15.01 (existing home, pool and driveway)
 - Building Coverage of 3,643-square feet (8.72-percent), where the maximum permitted in the R-15 Zone is 18-percent; and
 - Lot Coverage of 11,894-square feet (28.46-percent), where the maximum permitted in the R-15 Zone is 35-percent.
 - Proposed Lot 15.02 (new home fronting on Prospect Street)
 - Building Coverage of 2,698-square feet (11.86-percent), where the maximum permitted in the R-15 Zone is 18-percent; and
 - Lot Coverage of 6,296-square feet (27.67-percent), where the maximum permitted in the R-15 Zone is 35-percent.

9. The Applicant has provided a copy of a Resolution approved by the Zoning Board on August 4, 2008 "for the creation of two (2) curb cuts, whereas only one curb cut is permitted." There were a number of findings/conditions including the following:
 - The driveway was to be made of Belgian blocks;
 - The Applicant was to "...provide three (3) drywells in the rear of the driveway area located near the north property line..."; and
 - "A single drywell unit that shall be installed per building permit for the dwelling addition."The Applicant shall provide testimony and note the location of the drywells on the plans.
10. The Applicant will be required to provide stormwater improvements on proposed Lot 15.02 should the Board act favorably on this application. At that time, the Applicant will need to submit engineered plans and calculations as part of their Site development/Grading Permit application.
11. All proposed mechanical equipment shall comply with the Ordinance for setbacks and screening.
12. The Applicant has not noted if they are proposing to remove any trees, and we defer to the City Forester for review and approval of the proposed improvements and submittal of a landscape plan.
13. The Applicant is proposing to maintain the access driveway from Prospect Street in addition to the access from High Street. We defer to the Board for the need to maintain access from Prospect Street and any required conditions for the proposed easement through Lot 15.02.
14. The Applicant shall be aware of their responsibility to repair any damage to improvements within the City right-of-way including, but not limited to, curb and asphalt caused by construction activities associated with the installation of the improvements on the subject lot.
15. The Applicant has noted that they will maintain a silt fence for the entire duration of construction.
16. The Applicant shall remove all excavated and excess soil from the site and shall not use excess soils elsewhere on site.
17. The Applicant shall be aware that if stormwater runoff drainage problems occur on their property and/or neighboring properties because of the construction of the proposed improvements, it is the Applicant's responsibility to remedy that drainage issue.
18. As a condition of approval, signed digital plans shall be transferred to the City of Summit for use in updating the GIS database for the property. Coordination with the City's Engineering Department shall be the responsibility of the Applicant after the application is approved by the City and prior to the issuance of a Certificate of Occupancy.

The referenced application and plans provided, satisfy the engineering requirements for this variance application. **Should the Board approve the project, the approval may be subject to the issuance of a grading permit (Chapter 35, Article 15) and any required Board conditions.** The Applicant shall verify the need for a grading permit with the City which will not be issued until all conditions of the resolution of approval are satisfied.

If you have any questions or require anything further, please contact me.

CLD/lb

Copy To:

⊖	PL/Zoning Chm./Atty.	⊖	Applicant
⊖	Boards Members	⊖	Applicant's Atty.

COMMUNITY SERVICES

TO: Christa Anderson, Zoning Officer
Eric Evers, Director/Fire Chief
Steven Zagorski, Police Chief
Engineering Division
Burgis Associates (if applicable)

Ralph Maritato, Construction Official
John Linson, City Forester
Health Department
Tom Conway, Chair, HPC
Environmental Commission (if
Applicable)

FROM: Chris Nicola, Land Use Assistant, DCS

DATE: July 6, 2022

LOCATION: 2 High Street **BLOCK:** 2802 **LOT:** 15

APPLICATION: Vassa Real Estate, LLC **FILE NO.:** PB-21-259

PROJECT: Minor subdivision plan with (c) – variances for min lot width & lot avg

Attached is a copy of the plans and application for the subject property. Please review this proposal and return a copy of this memo with your comments prior to the date indicated below.

Attach additional pages or reports, if necessary.

Please respond **July 20, 2022** (Please email cnicola@cityofsummit.org if you are unable to meet this date.)
by:

COMMENTS: no objections

Christa Anderson (NAME) **PRINT PLEASE** *Construction Official* (PRINT TITLE) *7/11/22* (DATE)

Copy To:		
Ø	PL/Zoning Chm./Atty.	Ø Applicant
Ø	Boards Members	Ø Applicant's Atty.

COMMUNITY SERVICES

TO: Christa Anderson, Zoning Officer
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COMMENTS: Very few trees would have to be removed as proposed.
Otherwise, no comment

John Linson Forester 7/7/22
(NAME) PRINT PLEASE (PRINT TITLE) (DATE)

Copy To:		
⊖	PL/Zoning Chm./Atty.	⊖ Applicant
⊖	Boards Members	⊖ Applicant's Atty.

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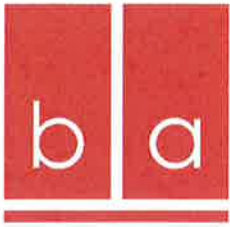
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COMMENTS: no comments

Gregory Karsia REHS 7/13/22
(NAME) **PRINT PLEASE** (PRINT TITLE) (DATE)



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

PRINCIPALS:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA

B U R G I S
ASSOCIATES, INC.

MEMORANDUM

To: City of Summit Planning Board
From: Joseph H. Burgis, PP, AICP & Tom Behrens, Jr., PP, AICP
Subject: Vassa Real Estate, LLC (PB-21-259)
2 High Street
Block 2802 Lot 15
Minor Subdivision w/ 'c' Variance Requests
Date: July 21, 2022
BA#: 3903.06

I. INTRODUCTION

The Applicant, Vassa Real Estate, LLC is requesting minor subdivision approval as well as 'c' variance relief to subdivide the above-referenced property into two new lots, one of which will contain the existing single-family dwelling and the second will accommodate the development of a new single-family dwelling. The site is located in the R-15 Zone wherein the proposed single-family uses are permitted. The nature of proposed site improvements and extent of required variance relief are detailed herein.

II. DOCUMENTS SUBMITTED

Our office has reviewed the following application documents:

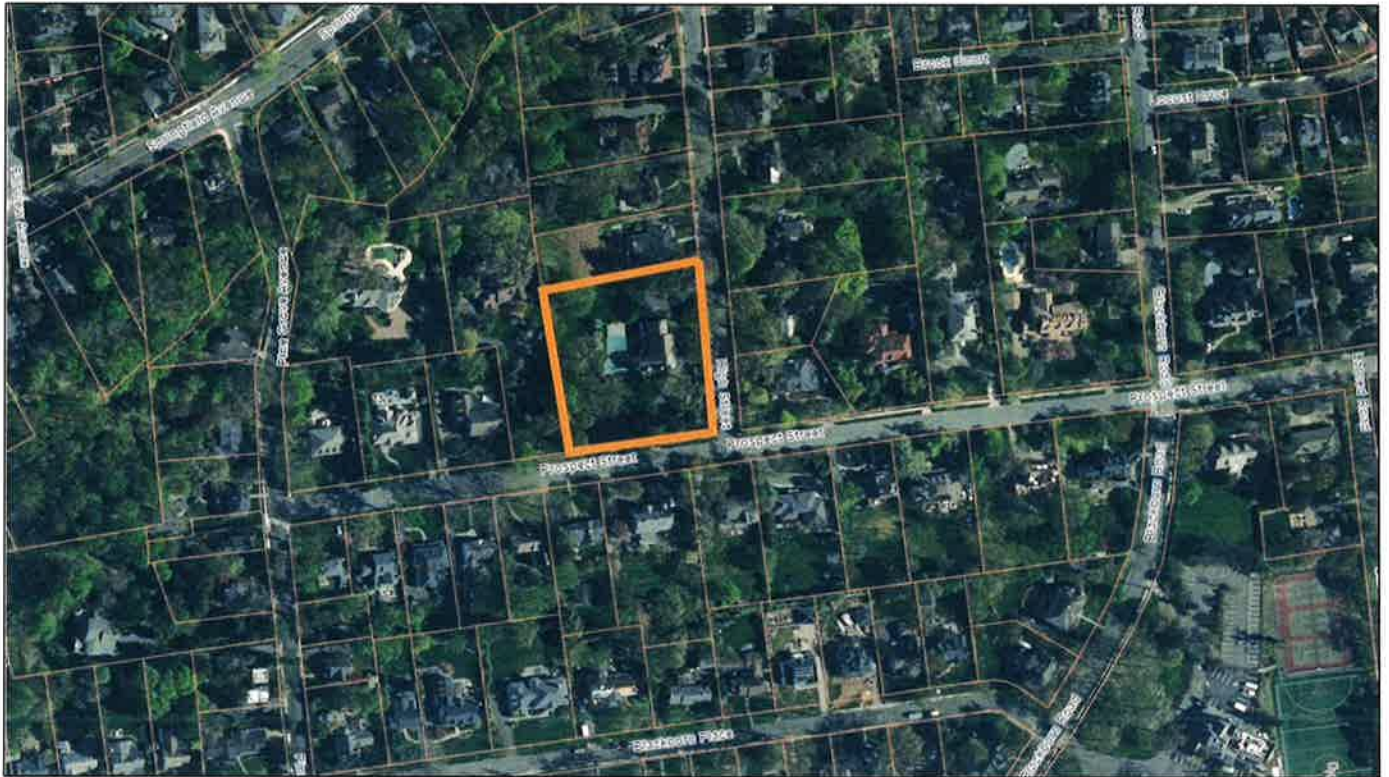
1. Application and accompanying documents.
2. Engineering plans (3 sheets) prepared by Casey & Keller, Inc. dated revised March 23, 2022.
3. Architectural plans (1 sheet) prepared by Dubinett Architects, LLC dated April 12, 2022.

III. PROPERTY DESCRIPTION

The site, identified as Block 2802 Lot 15 in City tax records, is a 1.51-acre corner lot with frontages of 271.8 feet on High Street and 233.6 feet on Prospect Street. The property is developed with a 2 ½-story single-family dwelling facing high Street. Associated site improvements include a paved driveway that traverses the front of the property with one curb cut on each street frontage, rear pool and patio and various paved and landscaped areas. The property slopes from the southeast corner of the site at an elevation of 104 downward to the northwest corner of the site at an elevation of 80.

Development surrounding the property primarily consists of other single-family uses. The aerial image below provides a general overview of the site and surrounding development.

IMAGE #1 AERIAL PHOTOGRAPH



Source: NJGeoWeb, July 21, 2022.

IV. PROPOSED DEVELOPMENT

The Applicant proposes to subdivide the existing corner lot into two new lots. Lot 15.01 will contain the existing single-family dwelling and associated site improvements including the rear pool and patio and portion of the existing driveway. Lot 15.02 is intended to accommodate the development of a new single-family dwelling with associated site improvements including a paved driveway leading to side garage access and a patio in the side yard.

The following is offered for the Board's consideration with respect to the proposed subdivision and site improvements:

1. Access Easement. The plans depict a proposed 17-foot wide access easement to enable the existing driveway serving the dwelling on Lot 15.01 to remain on Lot 15.02. We question the functional and practical need for this configuration as Lot 15.01 will retain its driveway access on High Street and otherwise has ample room to park and circulate on site. The easement would carry with the land regardless of future ownership of either property with implications for future neighbor issues. Should the Board be favorable to granting approval for this easement, the Board should have the opportunity to review the easement language to ensure its adequacy.
2. Basement Floor Plan. The first floor plan of the proposed dwelling on Lot 15.02 appears to indicate that there will be basement access however no basement floor plan has been provided. The Applicant shall provide an overview of the proposed basement floor plan or confirm that there will be no basement.
3. Exterior Equipment. The plans should be revised to depict the proposed locations of exterior mechanical equipment such as a/c units and emergency generators, as applicable, to confirm they will be placed in conforming locations on Lot 15.02.

4. Stonewall Encroachment. It appears that a portion of the existing stone wall located south of the existing dwelling to remain on Lot 15.01 will encroach beyond the shared lot line with 15.02. The Applicant shall propose a solution to prevent future issues from this encroachment.
5. Site Grading. Based on the elevations of the proposed dwelling on Lot 15.02, it appears that substantial site grading will be required. The Applicant shall confirm the extent of proposed site grading and any associated variance relief that may be required.

V. ZONING

The site is located in the R-15 Zone wherein the existing and proposed single-family uses are permitted. The following table illustrates the R-15 bulk requirements as compared to the existing and proposed development conditions.

Table 1: R-15 Zone Requirements

Requirement	R-15 Zone	Existing Lot 15	Proposed Lot 15.01	Proposed Lot 15.02
Min. Lot Area				
Standard Lot	15,000 sf	N/A	41,795 sf	N/A
Corner Lot	18,000 sf	64,549 sf	N/A	22,754 sf
Lot Area Avg.				
Lot 15.01	24,986 sf	64,569 sf	41,795 sf	N/A
Lot 15.02	29,288 sf	64,569 sf	N/A	22,754 sf (V)
Min. Lot Width	90 ft	269.05 ft	176.32 ft	90 ft
Lot Width Avg.				
Lot 15.01	107.22 ft	269.05 ft	176.32 ft	N/A
Lot 15.02	110.67 ft	269.05 ft	N/A	92.73 ft (V)
Min. Front Yard				
High Street	35 ft	54.05 ft	54.05 ft	119.61 ft
Prospect Street	35 ft	113.58 ft	N/A	41.80 ft
Min. Rear Yard	45 ft	N/A	77.04 ft	N/A
Min. Side Yard	15 ft	74.82 ft, 132 ft	77.57 ft, 18.45 ft	19.86 ft, 36.64 ft
Min. Side Yard Combined	35%	76.9%	54.46%	62.7%
Max. Lot Coverage	35%	20.03%	28.46%	27.67%
Max. Building Coverage	18%	5.64%	8.72%	11.86%
Max. Building Height	35 ft/2 sty	35 ft/2 sty	35 ft/2 sty	27.45 ft/2 sty
Max. Floor Area	25%	12.5%	19.34%	23.71%

(E): Existing nonconforming condition; (V): Variance relief required

Required Variance Relief

The development application requires the following variance relief:

1. 'c' Average Lot Area. Proposed Lot 15.02 will have a lot area of 22,754 square feet where the R-15 Zone requires a minimum corner lot area of 18,000 square feet but where the average neighborhood lot area is 29,288 square feet requiring variance relief. The Applicant shall provide a justification for the proposed deviation from the average neighborhood lot area in accordance with the statutory criteria below.

2. 'c' Average Lot Width. Proposed Lot 15.02 will have a lot with of 90 feet where the R-15 Zone requires a minimum lot width of 90 feet but where the average neighborhood lot width is 110.67 feet requiring variance relief. The Applicant shall provide a justification for the proposed deviation from the average neighborhood lot width in accordance with the statutory criteria below.
3. 'c' Minimum Patio Setback. The proposed patio on Lot 15.02 will have a nonconforming setback of 10 feet from the northerly side lot line where accessory structures such as patios attached to the dwelling must comply with the required principal building setbacks (Section 35-9.7B), which in this case is 15 feet. Similarly, Section 35-9.8B(5) requires a minimum setback of 15 feet from side and rear lot lines for detached active accessory structures which include patios. This deviation appears to be a function of the proposed development configuration. The Applicant shall provide a justification for this relief as well as any proposed measures to mitigate impacts from the nonconforming setback such as landscape and or fence screening.
4. 'c' Single Driveway Permitted. Section 35-14.2G2 permits single and two-family properties in the R-15 Zone to have a single driveway in the required front yard area where Lot 15.02 will contain one driveway serving the dwelling on that lot and the existing portion of the driveway to serve Lot 15.01. This proposed arrangement where the portion of driveway serving Lot 15.01 that will remain on Lot 15.02 is highly irregular given that Lot 15.01 will retain its driveway access on High Street which provides direct access to the side parking area. The Applicant shall provide a justification as to the hardships and/or public benefits that would enable the Board to grant the requested variance relief for the proposed driveway configuration extending onto both lots where alternative access exists and will be provided.
5. 'c' Minimum Driveway Setback. As a result of the proposed subdivision, the existing driveway that will extend onto both lots will have a nonconforming setback of 0 feet from the proposed subdivision boundary where Section 35-14.2G6 requires a minimum driveway setback of 2 feet. This condition does not currently exist and is a function of the intention to retain the existing driveway.
6. 'c' Maximum Parking Area. The existing 22 foot wide parking area to remain in front of the dwelling on Lot 15.01 is an existing nonconforming condition where Section 35-14.2G.8. permits single-family dwellings to have maximum parking areas not to exceed the applicable parking requirement by more than 200%. While an existing condition, it appears that additional variance relief may technically be required as a result of the proposed subdivision. The Applicant shall discuss the feasibility of correcting this condition.

VI. STATUTORY CRITERIA

The following is a summary variance relief criteria required to be addressed by the Applicant:

'c'(1)'/c'(2) Variance Relief

The statute provides two approaches to 'c' variance relief, commonly referred to as the 'physical features' test and the 'public benefits' test. These are identified as follows:

- A. Physical Features Test: An applicant may be granted 'c'(1) variance relief when it is demonstrated that the noncompliant condition is caused by 1) an exceptional narrowness, shallowness, or shape of the property, 2) exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or 3) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.
- B. Public Benefits Test: An applicant may be granted 'c'(2) variance relief where it can prove the following: 1) that the granting of the variance will advance the intents and purposes of the MLUL; 2) that the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

In addition, the applicant must address the Negative Criteria of the statute. Here an applicant must demonstrate that the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the master plan and zoning ordinance.