

**RESOLUTION OF THE BOARD OF ADJUSTMENT
TOWNSHIP OF LONG HILL
MORRIS COUNTY, NEW JERSEY**

**JOE AND CARLA JBEILY
75 COTTAGE PLACE
GILLETTE, NEW JERSEY 07933
BLOCK 13407, LOT 28
APPLICATION NO.: 2021-01Z**

**Hearing Date: May 4, 2021
Board Action: May 4, 2021
Memorialization: June 15, 2021**

WHEREAS, Joe and Carla Jbeily (the “Applicants”) are the owners of property located at 75 Cottage Place in Gillette, identified as Block 13407, Lot 28 (the “Property”) on the Long Hill Township Tax Map, in the R-3, Residential, zoning district; and

WHEREAS, the Applicants applied to the Board of Adjustment of the Township of Long Hill (the “Board”) with an application requesting relief from certain bulk standards in order to construct an addition in an existing single-family home and to construct an inground swimming pool on the Property; and

WHEREAS, the Applicants requested the following relief from the Board (the “Relief Requested”):

Bulk variances in accordance with N.J.S.A. 40:55D-70c(1) and/or c(2) from the requirements in the Township of Long Hill Land Use Ordinance, 1996 (the “Ordinance”), as follows:

Maximum Lot Coverage (Ordinance Section 131):
Permitted: 20%; Existing: 23%; Proposed: 28%; and

WHEREAS, the Applicants submitted the following plans and documents in support of the Application, which plans and documents were made a part of the record before the Board, as follows:

Application with addenda, dated February 19, 2021;

Architectural plans entitled “Proposed Alteration to Existing Structure for Mr. and Mrs. Jbeily, 75 Cottage Place, Gillette, Morris County, NJ”, prepared by Scialla and Associates Architects, Inc., consisting of 6 sheets, dated June 4, 2020.

“Variance Grading Plan for Lot 28 Block 13407, 75 Cottage Place Township Of Long Hill, Morris County, New Jersey”, prepared by Murphy & Hollows Associates LLC, consisting of 3 sheets, dated January 6, 2021; and

WHEREAS, the Applicants met all jurisdictional requirements enabling the Board to hear and act on the Application and appeared before the Board on the Hearing Date, as specified above; and

WHEREAS, the Board considered the following reports from its professionals:

Memorandum from Board Planner, Elizabeth Leheny, PP, AICP, dated April 29, 2021;

Memorandum from Board Engineer, Richard Keller, PE, PP, CME, dated April 30, 2021;
and

WHEREAS, during the public hearing on the Application on the Hearing Date, the Applicants, appearing pro se, were given the opportunity to present testimony and legal argument, and members of the public were given an opportunity to comment on the Application; and

WHEREAS, the Applicants presented testimony from the following individuals:

1. Joe and Carla Jbeily, Applicants;
2. Sam Scialla, Applicants' Architect;
3. William Hollows, Applicants' Engineer; and

WHEREAS, members of the public appeared to ask questions about or to speak with regard to the Application, as more fully set forth on the record; and

WHEREAS, the Applicants introduced the Application and presented testimony to the Board as more fully set forth on the record, as follows:

1. Joe and Carla Jbeily were sworn and testified describing the proposed addition and swimming pool. The Applicants propose a small addition to the kitchen and family room in order to make the home more functional. The Applicants also proposed to construct an inground swimming pool.

2. Sam Scialla was sworn, provided the Board with his qualifications and was accepted as a licensed architect. Mr. Scialla testified indicating that the existing layout of the rooms in the house is awkward. Mr. Scialla described the proposed addition stating that the interior space will be opened and will make the interior more usable. The home will be expanded about three or four feet beyond the existing deck. The front porch is also being expanded in order to protect the entrance into the home. The zoning table will be amended and corrected on the architectural plans.

3. William Hollows was sworn, provided the Board with his qualifications and was accepted as a licensed engineer. Mr. Hollows testified describing the location of the Property. The Property was created as part of a 1976 Density Modification Subdivision. At that time, 18.5 acres of open space was deeded to the Township by the developer. Three open space acres abut the Property. Mr. Hollows testified indicating that the Applicants' proposal represents an increase by 1048 square feet. Mr. Hollows testified that stormwater flows onto the open space parcel. Mr. Hollows described the addition, the deck and the proposed swimming pool. Mr. Hollows testified that a drywell will be installed and that the roof leaders will be connected thereto thereby reducing the runoff from the Property. Mr.

Hollows indicated that a new retaining wall will be added that will measure 4 feet to 2 feet along an existing slope. A new board on board fence will be installed in the rear of the Property and an evergreen screen will be added along the top of the retaining wall. One tree will be removed to accommodate the inground pool and the other existing trees will be protected during construction.

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Property is comprised of an improved parcel designated as Lot 28 in Block 13407, more commonly known as 75 Cottage Place, in the R-3, residential zoning district. The Property is improved with an existing single-family residence and was created as part of a Density Modification Subdivision. Although the Property is required to comprise a lot area of 21,000 sq. ft. and a lot width of 105 feet, the Property is undersized comprising 20,617 sq. ft. with a lot width of 119.25 feet.

2. The Applicants propose to expand the home with an addition, to remove an existing deck, add a new deck and construct a new inground swimming pool with a patio surround and a retaining wall. The Applicants' proposed improvement deviates from the bulk standard limiting the maximum allowable lot coverage, as enumerated in the Relief Requested, therefore the Applicant has requested relief from the Board in the form of a bulk variance in accordance with N.J.S.A. 40:55D-70c(1) and (2).

3. All jurisdictional requirements of the Application were met and the Board proceeded to hear the Application and render its determination which is memorialized herein.

4. An applicant requesting a bulk variance under subsection "c" of N.J.S.A. 40:55D-70 must prove that it has satisfied both the positive and negative criteria, as well. The positive criteria in bulk variance cases may be established by the Applicant's showing that it would suffer an undue hardship if a zoning regulation were to be applied strictly because of a peculiar and unique situation relating to the property in accordance with N.J.S.A. 40:55D-70c(1). Under the c(1) standard, an applicant must prove that the need for the variance is occasioned by the unique condition of the property that constitutes the basis of the claim of hardship. Relief may not be granted where the hardship is self-created. The positive criteria may also be established by a showing that the application for variance would advance the purposes of the Municipal Land Use Law and the benefits of the deviation would substantially outweigh any detriment in accordance with N.J.S.A. 40:55D-70c(2). In order to establish the positive criteria for a c(2) variance, an applicant must show that the proposed deviation from the zoning ordinance represents a better zoning alternative and advances the purposes of the Municipal Land Use Law, as set forth in N.J.S.A. 40:55D-2. A c(2) variance should not be granted when the only purposes that will be advanced are those of the property owner. The focus of a c(2) variance is on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.

In order to satisfy the negative criteria for a "c" variance, an applicant must show that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance. The requirement that the grant of the variance not substantially impair the intent and the purpose of the zone plan and zoning ordinance focuses on whether the grant of the variance can be reconciled with the zoning restriction from which the applicant intends to deviate. Unlike use variances, reconciliation of a bulk or dimensional variance with the zone plan and zoning depends on whether the grounds offered to

support the variance, either under subsection c(1) or c(2), adequately justify the board's action in granting an exception from the ordinance's requirements.

6. The Board finds that relief may be granted for the deviation resulting from the Applicants' proposal to construct an addition, a new deck, a new retaining wall, and an inground swimming pool in a residential zoning district, as specified in the Relief Requested. The Property is undersized and, as such, no improvement may take place without Board relief. The Board finds that the Property's size and the location of the home on the Property is preexisting and presents a hardship. The Board further finds that it is not possible for the Applicant to obtain additional land in order to create a conforming lot as all of the lots surrounding the Property are improved. The Board is satisfied that the existing open space adjacent to the Property as well as the Applicants' stormwater management measures mitigate against the negative aspects of the proposed development. The Board is further satisfied that the Applicants' agreement to comply with the conditions that have been imposed herein further mitigates any negative aspects of the proposed development. The Board finds that the Applicant's proposal to construct the addition, pool, deck, and appurtenant site improvements is well suited with the residential zone despite the physical constraints on the Property, does not cause substantial detriment to the public good, the zone plan or the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, on the basis of the evidence presented to it, and the foregoing findings of fact and conclusions of law, that the Board of Adjustment does hereby GRANT the Relief Requested as noted above, subject to the following:

1. The Applicants are required to comply with the following conditions:
 - a. The Applicants shall comply with the Applicant's representations to and agreements with the Board during the hearing on this Application.
 - b. The Applicants shall comply with the Board Engineer's report dated April 30, 2021;
 - c. The Applicants shall provide a perc test prior to commencement of construction, to the satisfaction of the Board Engineer and shall comply with any further guidance regarding stormwater mitigation measures;
 - d. The Applicants shall amend the architectural plans to correct the zoning table, to the satisfaction of the Board Engineer.
 - e. The Applicants shall amend the plans to indicate the location and type of evergreen screen along the entirety of the retaining wall, to the satisfaction of the Board Engineer.

2. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the Township of Long Hill, other Township Ordinances, or the requirements of any Township agency, board or authority, or the requirements and conditions previously imposed upon the Applicants in any approvals, as memorialized in resolutions adopted by the Township of Long Hill Board of Adjustment or Planning Board except as specifically stated in this Resolution.

3. The grant of this Application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.

4. All fees and escrows assessed by the Township of Long Hill for this Application and the Hearing shall be paid prior to the signing of the plans by the municipal officers. Thereafter, the Applicants shall pay in full any and all taxes, fees, and any other sums owed to the Township before any certificate of occupancy shall issue for the Property.

5. In accordance with the adopted ordinance provisions and the current requirements of the Township of Long Hill, to the extent applicable, the Applicants shall be required to contribute to the Township's "Affordable Housing Trust Fund" and/or otherwise address the impact of the subject application for development upon the affordable housing obligations of the Township, in a manner deemed acceptable by the Township Committee and in accordance with COAH's "Third Round Substantive Rules" and/or in accordance with enacted legislation and/or in accordance with direction from the Courts.

6. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the submitted plan or the improvements to be installed, which are subject to third-party jurisdiction and which require approvals by any third-party agencies. This Resolution of approval is specifically conditioned upon the Applicants' securing the approval and permits of all other agencies having jurisdiction over the proposed development. Further, the Applicants shall provide copies of all correspondence relating to the Application, reviews, approvals and permits between the Applicants and third-party agencies from which approval and permits are required to the Planning/Zoning Coordinator of the Township of Long Hill, or designee, or any committee or individual designated by ordinance or by the Board to coordinate Resolution compliance, at the same time as such correspondence is sent or received by the Applicants.


WHEREAS, A Motion was made by Mr. Johnson and seconded by Mr. Grosskopf to GRANT approval of the Relief Requested as set forth herein.

BE IT FURTHER RESOLVED, that this Resolution, adopted on June 15, 2021, memorializes the action of the Board of Adjustment taken on the Hearing Date with the following vote: Yes:, Grosskopf, Hain, Johnson, Malloy, Robertson, Rosenberg, Gerecht; No: None; Recused: None; Not Eligible: None; Absent: Aroneo, Gianakis.

RESOLUTION DATE: June 15, 2021


ATTEST:


Debra Coonce,
Board Secretary


Edwin F. Gerecht, Jr.,
Chairman

VOTE ON RESOLUTION					
MEMBER	YES	NO	NOT ELIGIBLE	ABSTAINED	ABSENT
CHAIRMAN GERECHT	X				
VICE CHAIRMAN JOHNSON	2ND				
ARONEO			X		
GIANAKIS			X		
GROSSKOPF	X				
MALLOY	M				
ROSENBERG	X				
HAIN – ALT 1	X				
ROBERTSON – ALT 2	X				

I hereby certify this to be a true copy of the Resolution adopted on June 15, 2021.


 Debra Coonce,
 Board Secretary

STATE OF NEW JERSEY
MORRIS COUNTY

SS.

I, Debra Coonce, being of full
age, being duly sworn upon her oath, certifies:
that a notice of which the annexed is a true copy, was
published in the Echoes Sentinel which is a newspaper
published in Morris County, New Jersey;
on the 1st day of July, 2021
in said newspaper.

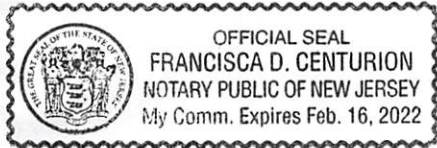


Sworn and subscribed before me this

7TH day of JULY, 2021



Notary Public of New Jersey



Long Hill Township
Public Notice
NOTICE OF DECISION OF THE township of LONG HILL
zoning board of adjustment

Public notice is hereby given that the following action was taken by the Township of Long Hill Zoning Board of Adjustment at its meeting on June 15, 2021:

Resolution of Approval Memorialized
Variance
Block 13407 / Lot 28 / Zone R-3
75 Cottage Place
Application Number 21-01Z
Mr. & Mrs. Jbally

Resolution of Approval Memorialized
Variance
Block 12702 / Lot 38 / Zone R-3
95 E. Rayburn Road
Application Number 21-06Z
Marco Cavallari

All documents relating to this application may be examined by the public by appointment in the Planning & Zoning Office in the Township of Long Hill Municipal Building located at 915 Valley Road, Gillette, NJ. Office Hours are as follows: Monday, Tuesday & Thursday - 8:30 AM to 4:30 PM, Wednesday - 8:30 AM to 6:30 PM and Friday - 8:30 AM to 2:30 PM.

Debra Coonce
Zoning Board of Adjustment Secretary
Planning & Zoning Coordinator
Township of Long Hill

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