

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

**MEE SOOK JEON  
329 MAIN AVENUE  
STIRLING, NEW JERSEY 07980  
BLOCK 11513, LOTS 3, 4, 4.01  
APPLICATION NO.: 2019-04Z**

**Hearing Date: August 31, 2021  
Board Action: August 31, 2021  
Memorialization: October 5, 2021**

WHEREAS, Mee Sook Jeon (the “Applicant”) is the owners of property located at 329 Main Avenue in Stirling, identified as Block 11513, Lots 3, 4, and 4.01 (the “Property”) on the Long Hill Township Tax Map, in the R-4, Residential, zoning district; and

WHEREAS, the Applicant proposes to make some cosmetic changes to the structures on the Property and to consolidate three separate tax lots into one lot in order to create a lot that complies with the lot size requirement of the R-4 zoning district; and

WHEREAS, the Applicant applied to the Board of Adjustment of the Township of Long Hill (the “Board”) with an application requesting use variances and relief from certain bulk standards in order to permit and ratify two existing principal structures and appurtenant existing accessory structures on the Property that will result from the proposed consolidation of the Property from three lots into one lot; and

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

Use variance in accordance with N.J.S.A. 40:55D-70d(1) to permit two principal residential uses and structures on a single tax lot in contravention of Section LU103.5 of the Township of Long Hill Land Use Ordinance, 1996 (the “Ordinance”);

Floor area ratio variance in accordance with N.J.S.A. 40:55D-70d(4) to permit and ratify the existing floor area ratio that exists on the three lots after consolidation in one lot as required by the Ordinance in Section LU 131, as follows:

Permitted: 4,200 sf; Existing and Proposed (after consolidation): 5,178 sf (total including residential and non-residential);

Minor site plan approval in accordance with N.J.S.A. 40:55D-46.1;

Bulk variances in accordance with N.J.S.A. 40:55D-70c(1) and/or c(2) from the requirements in the Ordinance, as follows:

Minimum Front Yard Setback – Main Ave (Ordinance Section 131):  
Required: 50’; Existing and Proposed (after consolidation): 9.8’;

Minimum Front Yard Setback – Morris Street (Ordinance Section 131):  
Required: 50’; Existing and Proposed (after consolidation): 3.4’;

Minimum Site Yard Setback (Ordinance Section 131):  
Required: 35'; Existing and Proposed (after consolidation): 28.3';

Maximum Lot Coverage (Ordinance Section 131):  
Permitted: 25%; Existing and Proposed (after consolidation): 42.7%;

Parking (Ordinance Section 133.5):  
Maintain 11 parking spaces in the Morris Street right of way;

Sign:  
7.5' sign proposed where a 4' sign is permitted; and

WHEREAS, the Applicant 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 March 21, 2019;

Site Plan, prepared by William G. Hollows, P.E. of Murphy & Hollows Associates LLC, revised through November 5, 2020, consisting of 2 sheets;

Plan Partial Building Section Detail, prepared by Nicholas J. Ferrara Architect/ Planner, dated August 1, 2020, consisting of 1 sheet; and

WHEREAS, the Applicant 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 report from its Planner:

Memorandum from Board Planner, Elizabeth Leheny, PP, AICP, dated August 27, 2021;

Memorandum from Board Engineer, Richard Keller, PE, PP, CME, dated August 27, 2021; and

WHEREAS, during the public hearing on the Application on the Hearing Date, the Applicant, represented by attorney, Frederick B. Zelle, was 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 following exhibit was marked into evidence during the Hearing:

Exhibit A-1: Sheet 2 revised site plan, with stop bar, stop sign and crosswalks; and

WHEREAS, the Applicant presented testimony from the following individuals:

1. Nicholas J. Ferrara, Applicant's Architect;
2. William G. Hollows, Applicant's Engineer; and

WHEREAS, no members of the public appeared to ask questions about or to speak with regard to the Application; and

WHEREAS, the Applicant's attorney introduced the Application and the Applicant presented testimony to the Board as more fully set forth on the record, as follows:

1. Nicholas J. Ferrara was sworn, provided the Board with his qualifications and was accepted as a licensed architect. Mr. Ferrara testified describing the improvements proposed to be made to the Property. With regard to the elevated walkway, Mr. Ferrara testified that cultured stone will be added to the exposed wall. Mr. Ferrara testified that none of the structures will be enlarged or extended in any way. Mr. Ferrara testified that the lighting on the porch will be recessed.

2. William G. Hollows was sworn, provided the Board with his qualifications and was accepted as a licensed professional engineer. Mr. Hollows testified describing the Property and detailing the three lots that comprise the Property. Lot 3 is vacant with a lawn area, lot 4 contains the commercial structure, and lot 4.01 contains the single-family residential structure. Mr. Hollows testified that parking stalls are located partially on the Property and partially on Morris Street. The porch of the single-family residence is partially located on lot 4. The commercial structure contains non-residential space as well as two residential units. Lot 4.01 also contains some parking. Mr. Hollows presented the site plan and described the configuration and sizes of the three lots. Combining the three lots into one will reduce the number of bulk deviations from the Ordinance.

Referencing Exhibit A-1, Mr. Hollows testified that a 5' by 100' site triangle would be delineated in order to demonstrate that the proposed sign will not impede visibility. In addition, an evergreen shrub will be removed in order to increase the sight distance from Morris Street looking toward Valley Road. Bumper curbs will be installed on Morris Street and the other parking spaces will be striped. A larger sign is being proposed in order to identify the tenants in the building. Mr. Hollows indicated that pavement along Morris Avenue will be repaired. Mr. Hollows stipulated on the record that any lighting will conform to Ordinance requirements.

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

1. The Property is comprised of three undersized, improved parcels designated as Lots 3, 4, 4.01 in Block 11513, more commonly known as 329 Main Avenue, in the R-4, residential zoning district. The Property is located at the southeasterly corner of Morris Street and Main Avenue and is improved with a mixed-use commercial and residential building on lot 4, a single-family residence on lot 4.01 and a lawn on lot 3. The presence and locations of the existing structures do not conform to Ordinance standards, as enumerated in the Relief Requested, therefore the Applicant have requested relief from the Board in the form of a minor site plan approval in accordance with N.J.S.A. 40:55D-46.1, a use variance in accordance with N.J.S.A. 40:55D-70d(1), a variance for exceeding the allowable floor area ratio in accordance with N.J.S.A. 40:55D-70d(4), and bulk variances in accordance with N.J.S.A. 40:55D-70c(1) and (2).

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

3. An applicant requesting a use variance under subsection "d(1)" or a floor area ratio variance under subsection "d(4)" of N.J.S.A. 40:55D-70 must prove that it has satisfied both the positive and negative criteria. In order to satisfy the positive criteria for the "d(1)" an applicant must prove, and the Board must specifically find, that either: the proposed use inherently serves the public good; the owner of the property would suffer an "undue hardship" if required to use the property in the manner permitted by the zoning ordinance; or the use would serve the general welfare because the site is particularly suitable for the proposed use. See, Saddle Brook Realty, LLC v. Twp. Of Saddle Brook Zoning Board of Adjustment, 388 N.J. Super 67, 76 (App Div 2006). Here, the Applicant did not maintain that the use was inherently beneficial or that the owner would suffer undue hardship therefore the Applicant's request must be evaluated under the site suitability test of the positive criteria. The site suitability test focuses on (1) why the location of the site within the municipality is particularly suited to the use despite the zoning and (2) what unique characteristics of the site itself make it particularly appropriate for the proposed use rather than a permitted use. See, Kohl v. Mayor and Council of Fair Lawn, 50 N.J. 268, 280 (1967). It is not enough to merely demonstrate that the proposed use promotes one or more of the purposes of zoning listed in the MLUL at N.J.S.A. 40:55D-2, an Applicant must demonstrate that the site is peculiarly fitted or particularly suitable for the proposed use. See, Fobe Associates v. Mayor and Council of Demarest, 74 N.J. 519 (1977).

In order to satisfy the negative criteria for a “d(1)”, an applicant must demonstrate that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance. The applicant for a use variance must establish the negative criteria with an enhanced quality of proof. See, Medici, 107 N.J. 1, 21 (1987). The Applicant’s proofs and the Board’s findings must reconcile the proposed use variance with the zoning ordinance’s omission of the use from those permitted in the zoning district. Id. at 21-22.

In order to satisfy the positive criteria for a “d(4)” variance, an applicant must prove and the Board must find that, after the relief is granted, the site will accommodate the problems associated with a larger floor area than permitted by the ordinance. See, Randolph Town Center v. Randolph, 324 N.J. Super. 412, 416 (App. Div. 1999). A “d(4)” variance applicant need not show that the property is particularly suited for more intensive development. Id.

As for the satisfaction of the negative criteria for a “d(4)” variance, an applicant must also demonstrate that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the zone plan and zoning ordinance. However, the applicant is not subject to the enhanced quality of proof for a “d(4)” variance. In granting an approval of a “d(4)” variance, a board must determine whether conditions can be imposed in its approval to ensure that the deviations from the FAR requirements do not cause substantial detriment to the public good or the intent and purpose of the zone plan and zoning ordinance.

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.

5. The Board finds that relief may be granted for the deviations associated with the Applicant’s proposal to consolidate the lots and to retain the existing uses on the Property. The Board is satisfied that the consolidation will take three undersized lots and create one conforming lot with respect to lot size. The balance of bulk variance relief is required due to the Property’s existing condition. The three lots, in their current configuration and with their existing improvements, are indistinguishable and currently appear to be and function as one lot. The Board finds that the use variance for allowing multiple uses to occupy one lot may be granted because the proposed single lot and the existing structures are particularly suited to the Property’s current location. The Board is satisfied that the Property’s use will not

change in any manner from the standpoint of the public. However, the Board is further satisfied that the proposed aesthetic improvements will promote a more desirable visual environment and will assist in improving the streetscape along Main Avenue in the location of Morris Street. The Board finds that the requested variance relief will not pose any substantial detriment to the public good as the Property's use is not being altered in any manner. The Board further finds that the Applicant's proposal will not cause any substantial detriment to the zone plan or to the zoning ordinance.

6. The Board is satisfied that the Applicant's proposal to improve the appearance of the Property complies with the Ordinance's site planning and design requirements, subject to certain conditions, and is appropriate to the Property. The Board is satisfied that the site lighting will not exceed Township standards and that the Applicant has agreed to add green additional green space. The Board finds that good cause has been shown to approve the Applicant's application for minor site plan approval, together with the variances and other relief enumerated in the Relief Requested, with the conditions imposed in this approval which mitigate against any negative aspects of the Applicant's proposal.

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 Applicant is required to comply with the following conditions:
  - a. The Applicant shall comply with the Applicant's representations to and agreements with the Board during the hearing on this Application.
  - b. The Applicant shall submit a lighting plan demonstrating that any lighting will be shielded and will comply with all Ordinance lighting requirements, to the satisfaction of the Board Engineer and Board Planner.
  - c. The Applicant shall create a pervious area in a location and manner suggested by the Board's Engineer in paragraph numbered 1.4 on page 2 of the Board Engineer's report dated August 27, 2021, 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 Applicant 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 Applicant 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 Applicant 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 Applicant’s securing the approval and permits of all other agencies having jurisdiction over the proposed development. Further, the Applicant shall provide copies of all correspondence relating to the Application, reviews, approvals and permits between the Applicant 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 Applicant.

BE IT FURTHER RESOLVED, a Motion was made by Mr. Grosskopf and seconded by Mr. Malloy to GRANT approval of the Relief Requested as set forth herein.

BE IT FURTHER RESOLVED, that this Resolution, adopted on October 5, 2021, memorializes the action of the Board of Adjustment taken on the Hearing Date with the following vote: Yes: Aroneo, Gianakis, Grosskopf, Hain, Malloy, Rosenberg, Gerecht; No: None; Recused: None; Not Eligible: Robertson; Absent: Johnson.

RESOLUTION DATE: October 5, 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			X		
ARONEO	M				
GIANAKIS					X
GROSSKOPF	X				
MALLOY	X				
ROSENBERG	X				
HAIN – ALT 1	2 <sup>ND</sup>				
ROBERTSON – ALT 2			X		

I hereby certify this to be a true copy of the Resolution adopted on October 5, 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 14th day of October, 2021  
in said newspaper.

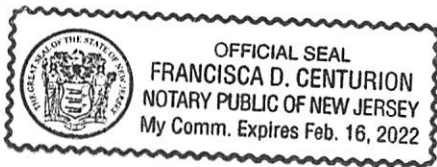


Sworn and subscribed before me this

19TH day of OCTOBER, 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 October 5, 2021:

**Resolution of Approval Memorialized**  
Use Variance  
Block 12806 / Lot 1 / Zone R-2  
1552-1554 Long Hill Road  
Application No. 21-05Z  
Christopher Finely

**Resolution of Approval Memorialized**  
Bulk & Use Variances  
Block 11513 / Lots 3, 4 & 4.01 / Zone R-4  
329 Main Avenue  
Application No. 19-04Z  
Meek Sook Jeon

**Resolution of Approval Memorialized**  
Block 11602 / Lot 24 / Zone R-4  
318 Mercer Street  
Application No. 21-09Z  
Dana Gonzales

All documents relating to this application may be examined on the website at: LHT - Zoning Board of Adjustment - Township of Long Hill, Morris County, New Jersey ([longhillnj.gov](http://longhillnj.gov)) or 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

P.F.\$41.31 10/14/T1