

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

DAVID and MAUREEN SINGH
250 Skyline Drive
Millington, New Jersey
Block 12803, Lot 33
APPLICATION NO.: #22-04Z

Hearing Date: June 7, 2022
Board Action: June 7, 2022
Memorialization: June 21, 2022

WHEREAS, DAVID and MAUREEN SINGH (the “Applicants”) are the owners of property located at 250 Skyline Drive, Millington, identified as Block 12803, Lot 33 (the “Property” or the “Site”) on the Official Tax Map of the Township of Long Hill, in the R-2 Residential Zone; and

WHEREAS, the Applicants applied to the Board of Adjustment of the Township of Long Hill (the “Board”) with an application requesting bulk variance relief, as set forth below, in order to remove the existing stone terrace and the stone patio surrounding the pool and replace these areas with a new terrace and pool patio at the Property:

A bulk variance for a proposed impervious coverage of 28%, whereas the existing impervious coverage is 29.7% and the maximum permitted impervious coverage is 20%, pursuant to the Township Land Use Ordinance (the “Ordinance”); 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:

- a. “Application for Development” for Application #22-04Z, dated February 8, 2022;
- b. Boundary Survey prepared by Philip A. McEntee, Jr., PLS, dated May 19, 2021, same consisting of 1 sheet;
- c. Site Plans prepared by Brian M. Hoarle, P.E., of RDH Design Group, dated February 10, 2022, same consisting of 5 sheets; 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:

- a. Memorandum from Board Planner, Elizabeth Leheny, P.P., A.I.C.P., dated June 2, 2022, same consisting of 5 pages; and
- b. Memorandum from Board Engineer, Samantha J. Anello, P.E., C.M.E., C.F.M., dated May 31, 2022, same consisting of 3 pages; and

WHEREAS, during the public hearing on the application on the Hearing Date, the Applicants were given the opportunity to present testimony and legal argument, and members of the public were given an opportunity to question all witnesses and comment on the application; and

WHEREAS, the Applicants presented testimony from the following individuals:

1. Daniel Singh, owner of the Property (the Applicant);
2. Robert D. Hessels, P.P., LLA, the Applicants' Professional Planer and Landscape Architect; and
3. Brian Hoarle, P.E., the Applicants' Civil Engineer; and

WHEREAS, members of the public appeared to ask questions about and to comment on the application, as more fully set forth on the record; and

WHEREAS, the Board Professionals, Elizabeth Leheny, P.P., A.I.C.P, the Board Planner, and Samantha J. Anello, P.E., C.M.E., C.F.M., the Board Engineer, were duly sworn according to law; and

WHEREAS, the subject Site includes one tax lot (i.e., Block 12803, Lot 33) located on the west side of Skyline Drive in Millington. The lot is in the R-2 Residence zone and is 45,000 square foot (1.03 acres) with approximately 150 feet of frontage on Skyline Drive. The Property is currently improved with a 2-story, brick, detached single-family dwelling with a raised slate terrace and free-form shaped inground swimming pool surrounded by a stone patio in the rear yard. Additional accessory structures in the rear yard include a brick pool house (± 159 square feet), frame shed (± 364 square feet), pool equipment (± 26 square feet), and a bridge (± 57 square feet) over a stream which runs in a north-south direction along the rear of the homes in the neighborhood leading to the Passaic River. The rear yard is surrounded by a chain link fence. The lot has two curb cuts off Skyline Drive allowing for a semi-circular driveway which passes the front door. The southerly portion of the semi-circle driveway leads to an attached parking garage. The Property is located within the R-2 residential zone and is surrounded by similar single-family homes in the neighborhood; and

WHEREAS, the Applicants are proposing to remove the existing stone terrace and the stone patio surrounding the pool and replace these areas with a new terrace and pool patio. The size of the patio would be reduced from the existing $\pm 1,922$ square feet to $\pm 1,097$ square feet (a reduction of ± 825 square feet or ± 43 percent from the existing patio); and the terrace area would be reduced from $\pm 1,534$ sf to $\pm 1,455$ sf (a reduction of ± 79 square feet or ± 5 percent). The rebuilt

terrace will include a seat wall, a firepit, and an outdoor kitchen. An existing built-in grill and two built-in fireplaces will not be replaced in the new terrace area. The pool, pool house, pool equipment structure, shed, and bridge will remain. The Applicants are also proposing to replace and augment landscaping around the terrace area, and transplant three evergreens to along the northern Property line; and

WHEREAS, the testimonial and documentary evidence presented at the hearing was as follows:

1. Mr. Singh was duly sworn according to law and testified as a fact witness. Mr. Singh testified the existing stone patio in the rear yard is more than 30 years old and is in significant disrepair. He explained that, in the context of renovating and replacing same, the Applicants will reduce the impervious coverage by almost 750 square feet.

2. Brian Hoarle, PD., of RDH Design Group, the Applicants' civil engineer, was duly sworn, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering. He explained the existing and proposed conditions. Mr. Hoarle introduced into evidence as **Exhibit A1**, a list of "kitchen appliances" proposed for the outdoor kitchen area.

3. Mr. Singh, on questioning, testified that the oversized shed (364 sq. ft. vs. 100 sq. ft. maximum permitted) has existed at the Property since the Applicants purchased it in 2013.

4. Mr. Hoarle testified regarding the shed's dimension and location on the lot (setbacks) and Mr. Singh testified it contains lawn equipment and the like. Mr. Singh also testified that the separate pool house has a bathroom with a shower.

5. Ms. Leheny, the Board Planner, explained that, while the Ordinance limits residential lots to only one shed, there is no limit as to accessory structures and, in her opinion, the pool house is an accessory structure but not a shed and, therefore, the Applicants can have both on the Property. The only variance required for the shed is for its excessive size (364 sq. ft. vs. 100 sq. ft.), and the Applicants requested relief for same, as well as the impervious coverage deviation.

6. Mr. Hoarle explained the existing significant landscape screening between the subject Property and adjacent Lots 8 and 9, and that the Great Swamp borders the Property as well. Mr. Hoarle also explained why the impervious coverage could not be further reduced, given the modest size of the pool and the need for the magnitude of surrounding pavement and patio, for functionality and safety reasons.

7. Mr. Hoarle also explained why no additional stormwater management is proposed, given the sufficiency of the existing stormwater management and the fact that the proposal calls for a reduction in the existing impervious coverage.

8. Robert D. Hessels, P.P., LLA, of RDH Design Group, was duly sworn, provided his qualifications, and was accepted by the Board as an expert in the field of land architecture and professional planning. He explained that John Peel of PK Environmental performed a wetlands

delineation. He also explained, in detail, the existing significant landscape screening between the subject Property and the adjoining residential lots.

9. The Applicants stipulated to downward directed and/or back/side shielded lighting to prevent light spillage beyond the property lines.

10. Mr. Hessels provided planning support for the bulk variance relief for both the excessive impervious coverage and the excessive size of the shed.

11. No members of the public commented on, or objected to, the application.

DECISION

12. After reviewing the evidence submitted, the Board, by a vote of 5 to 0, finds that the Applicants have demonstrated an entitlement to the requested bulk variance relief sought herein.

The Bulk Variances – Positive Criteria:

13. The Board recognizes that an applicant requesting bulk variance relief under subsection “c” of N.J.S.A. 40:55D-70 must prove that it has satisfied both the positive and negative criteria. 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 subsection 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.

14. The positive criteria for bulk variance relief may also be established by a showing that the granting of an application for variance relief would advance the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”) and the benefits of the granting such relief would substantially outweigh any detriment associated therewith, in accordance with N.J.S.A. 40:55D-70c(2). Under the subsection c(2) standard, an applicant must prove that the granting of a proposed deviation from the zoning ordinance represents a better zoning alternative and advances the purposes of the MLUL, 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.

15. Here, the Board finds that the requested bulk or “c” variance relief may be granted under subsection c(2) of N.J.S.A. 40:55D-70.

16. Pursuant to N.J.S.A. 40:55D-70(c)(2), the Board finds that the benefits of granting the requested relief substantially outweigh the detriment associated therewith, particularly given the modest nature of the Applicants’ proposal and the stipulated to conditions, which will further mitigate such relatively modest detriment.

17. As to the excess impervious coverage, the Board recognizes that the coverage has been actually reduced by almost 750 sq. ft., and the evidence revealed that the existing landscape screening is significant, and the existing stormwater management is sufficient. Moreover, the evidence revealed that the magnitude of the replacement coverage, which still results in an exceedance of total maximum permitted coverage, is necessary from a functionality and safety perspective. As to the excessively sized shed, the Board recognizes that the shed houses landscaping equipment and the like, thus improving the appearance of the Property.

18. As such, the Board finds that the Applicants have demonstrated the positive criteria for all of the requested variance relief under subsection c(2) of Section 70 of the MLUL.

The Bulk Variances – Negative Criteria:

19. In order to satisfy the negative criteria for “c” variance relief, an applicant must prove 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 focus of the “substantial detriment” prong of the negative criteria is on the impact of the variance on nearby properties. The focus of the “substantial impairment” prong of the negative criteria is on whether the grant of the variance can be reconciled with the zoning restriction from which the applicant intends to deviate.

20. As to the “substantial detriment” prong of the negative criteria, the Board finds that the Applicants have demonstrated that the proposal will not result in substantial detriment to the neighborhood or the general welfare, particularly since the appearance of the Property will be improved and the impervious surface coverage reduction will not increase stormwater runoff. The Board recognizes that no member of the public objected to the Applicants’ proposal, further evidencing that the proposal is not substantially out of character with the subject neighborhood. As to the “substantial impairment” prong of the negative criteria, the Board finds that granting the requested relief certainly does not rise to the level of a rezoning of the Property, particularly since the proposed use as a residential dwelling is a permitted uses in the R-2 Residential Zoning District.

21. Here, the Board finds that the Applicants have satisfied both the positive and negative criteria for the requested bulk variance relief under N.J.S.A. 40:55D-70(c)(2).

WHEREAS, the Board took action on this application at its meeting on June 7, 2022, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g).

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 Applicants' representations to, and agreements with, the Board during the hearing on this application; and
 - b. The Applicants shall comply with the requirements and recommendations set forth in the Board Engineer's Memorandum, dated May 31, 2022, and the Board Planner's Memorandum, dated June 2, 2022, including, all necessary updating and revisions to the previously submitted plans, if necessary;
2. The Applicants shall submit a Soil Erosion and Sediment Control (SESC) certification, or letter of exemption, from the Morris County Soil Conservation District prior to any land disturbance, if required;
 3. The Applicants shall provide pool compliant fencing and a self-latching gate pursuant to Ordinance requirements;
 4. Portions of neighboring lots are impacted by Freshwater Wetlands, and Freshwater Wetland Transition Areas as per the New Jersey Department of Environmental Protection (NJDEP) NJ-GeoWeb. A Letter of Interpretation (LOI) from the New Jersey Department of Environmental Protection (NJDEP) has not been submitted in support of this application. As such, the Applicants' engineer shall verify that the subject project does not impact Freshwater Wetlands or Freshwater Wetland Transition Areas and confirm if the subject project requires permitting from the NJDEP Division of Land Use Regulation;
 5. The rear of the Property contains an unnamed tributary to the Passaic River, which may be recognized as a Category One (C1) Water by the NJDEP. All C1 waters have a 150-foot Riparian Zone associated with them. As such the Applicants' engineer shall verify the limits of the riparian zone associated with this tributary and confirm if the subject project requires permitting from the NJDEP Division of Land Use Regulation;
 6. Per Long Hill Township Code Section LU 183-9, as the disturbance exceeds 1,000 square feet, Lot Grading Approval must be obtained and, per Long Hill Township Code Section LU-146, Stormwater Management is applicable to any minor or major site plan or subdivision that requires Planning Board or Board of Adjustment approval for both minor and major development as defined by the Code and, therefore, the Lot Grading Plan will require a stormwater management design;
 7. Any proposed drywell/stormwater management system must include a sumped inlet with bottom weep holes be installed between the trench drains and the drywell for debris collection and removal prior to discharge to the tank;
 8. The Applicants shall provide a construction detail for the trench drain;
 9. A grading plan shall be provided, and the wall heights specified:
 - a) Wall height includes retaining wall height plus the height of fall protection above the wall as per LU-154.1(E)3.

- b) Signed and sealed stability calculations must be provided for all retaining walls exceeding four (4) feet in height;
- 10. The “little princess spirea” plantings are listed as invasive for the Mid Atlantic by the National Resources Conservation Service (NRCS). The Applicants shall replace these plantings with a non-invasive species;
- 11. The Applicants shall obtain approval from the Township Fire Code Official as to the location of the proposed fire pit, and its proximity to the dwelling;
- 12. 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;
- 13. The Applicants shall comply with any and all prior conditions of approval to the extent that same would not be inconsistent with the approval granted herein;
- 14. The Applicants shall comply with Section 3-15.8 of the Ordinance, which prohibits construction activities between the hours of 8:00 p.m. and 7:00 a.m.;
- 15. 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;
- 16. 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;
- 17. Pursuant to Ordinance Section 172.11, any variance from the terms of this Ordinance hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within 12 months from the date of entry of the judgment or determination of the Board of Adjustment, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the Township Committee or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding; and
- 18. 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 to, or received by, the Applicants.

WHEREAS, a Motion was made by Board Member Aroneo and seconded by Board Member Lindeman to GRANT approval of the Relief Requested as set forth herein.

BE IT FURTHER RESOLVED, that this Resolution, adopted on June 21, 2022, memorializes the action of the Board of Adjustment taken on the Hearing Date with the following vote: : Yes:, Aroneo, Lindeman, Hain, Brennan, Johnson; No: None; Recused: None; Not Eligible: None; Absent: Gianakis, Grosskopf, Rosenberg, Gerecht.

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	M				
ARONEO					X
GIANAKIS			X		
GROSSKOPF			X		
ROSENBERG			X		
HAIN	X				
LINDEMAN – ALT 1	2 nd				
BRENNAN – ALT 2	X				

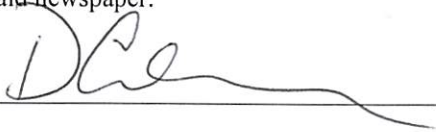
I hereby certify this to be a true copy of the Resolution adopted on June 21, 2022.


 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 30th day of June, 2022
in said newspaper.

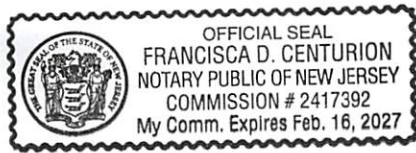
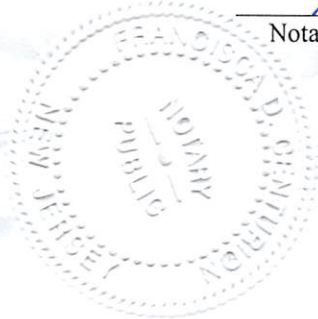


Sworn and subscribed before me this

30TH day of JUNE, 2022



Notary Public of New Jersey



Long Hill Township
PUBLIC NOTICE
NOTICE OF DECISION
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 21, 2022:

Resolution of Approval Memorialized
Bulk Variance
Block 12803 / Lot 33 / Zone R-2
250 Skyline Drive
Application No. 22-04Z
Robert Hessels on behalf of David & Maureen Singh

Bulk Variances
Block 11102 / Lot 13 / Zone R-3
766 Valley Road
Application No. 22-02Z
NGK Investments, LLC

All documents relating to this application may be examined on the website at: <https://longhillnj.gov/BOA/boa-resolutions.html> 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. \$34.17 06/30/T1