

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

**THERESA GALLO
300 South Northfield Avenue
Millington, New Jersey
Block 10104, Lot 5.01
APPLICATION NO.: #21-24Z**

**Hearing Date: April 19, 2022
Board Action: April 19, 2022
Memorialization: May 17, 2022**

WHEREAS, THERESA GALLO (the “Applicant”) is the owner of property located at 300 South Northfield Avenue, Millington, identified as Block 10104, Lot 5.01 (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 Applicant 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 construct an 879 square foot “senior suite” with a deck and ADA compliant ramp, which will be connected with the existing 1.5-story residential dwelling at the Property:

A bulk variance for a proposed 879 square foot “senior suite,” whereas a senior suite shall not comprise more than 650 square feet of floor area of one-story of the dwelling, pursuant to Section 124.8 of the Township Land Use Ordinance (the “Ordinance”); 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:

- a. “Application for Development” for Application #21-24Z, submitted October 27, 2021, including two (2) sheets of colorized Site photographs;
- b. Survey & Topography Map titled “Lot 5.01 Block 10104, 300 South Northfield Road, Township of Long Hill, Morris County, NJ,” prepared by William G. Hollows, P.E., P.L.S., of Murphy & Hollows Associates, LLC, dated July 12, 2021, last revised September 13, 2021, same consisting of one sheet;
- c. Site Plans titled “Lot 5.01 Block 10104, 300 South Northfield Road, Township of Long Hill, Morris County, NJ,” prepared by William G. Hollows, P.E., P.L.S., of Murphy & Hollows Associates, LLC, dated September 10, 2021, last revised April 7, 2022, same consisting of three sheets; and
- d. Architectural Plans titled “Addition to Residence, 300 S Northfield Rd., Millington, N.J.,” prepared by Nicholas J. Ferrara Architect/Planner, dated October 12, 2021, same consisting of three sheets; 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 reports from its professionals:

- a. Memorandum from Board Planner, Elizabeth Leheny, P.P., A.I.C.P., dated April 15, 2022, same consisting of three pages; and
- b. Memorandum from Board Engineer, Samantha J. Anello, P.E., C.M.E., C.F.M., dated April 7, 2022, same consisting of three pages; and

WHEREAS, during the public hearing on the application on the Hearing Date, the Applicant was 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 Applicant presented testimony from the following individuals:

1. Theresa Gallo, owner of the Property (the Applicant);
2. Nicholas J. Ferrara, A.I.A., the Applicant's Architect; and
3. William G. Hollows, P.E., the Applicant's 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, Ms. Gallo was duly sworn according to law and testified on behalf of the Applicant as a fact witness. She introduced the application and called witnesses to present testimony to the Board, as more fully set forth on the record, as follows:

1. Ms. Gallo provided an overview of the Applicant's proposal, the requested relief, the witnesses to be presented, and the materials submitted as part of the application.

2. Ms. Gallo testified that her parents are aging, have failing health, and can no longer care for themselves. She testified that, as such, she necessitates moving her parents to her home, and to provide some normalcy, a "senior suite." Ms. Gallo testified that at this time, her parents are mobile, but occasionally require a wheelchair. She testified that in order to make the senior suite ADA compliant and wheelchair accessible, additional square footage above the maximum permitted floor area of 650 square feet is necessary.

3. Ms. Gallo testified that she is aware of the conditions that come with Ordinance regulations regarding senior suites, including, among other things, the requirement that the residents of the proposed senior suite are her parents, that she will be required to certify to same on an annual basis, and that she will be required to remove the kitchen area from the senior-suite once her parents are no longer residing in same.

4. Nicholas J. Ferrara, A.I.A., the Applicant's Architect, with a business address of 29 Greenwood Avenue, Millington, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of Architecture. Referencing the Architectural Plans submitted with the application materials, Mr. Ferrara provided an overview of the proposed improvements and explained that no changes are proposed to the existing habitable dwelling area.

5. Mr. Ferrara testified as to the previously submitted plans and photographs, reviewed the overall Site conditions, as well as the plans for the proposed senior suite.

6. Mr. Ferrara testified that the senior suite will contain approximately 879 square-feet of floor area, whereas a maximum floor area of 650 square feet is permitted by the Ordinance. He testified that the Applicant's proposal exceeds the maximum permitted square footage as the Applicant requires wheelchair accessibility throughout the proposed suite, including wider doorways and hallways, and an accessible bathroom with a walk-in shower.

7. Mr. Ferrara testified that the Applicant's proposal otherwise meets all other bulk requirements set-forth in the Ordinance. He testified that there is a significant amount of landscaping and vegetative screening throughout the Property, including along the Property lines, the senior suite will be over 60% screened from the road by the principal structure, the senior suite will be constructed with the same or substantially similar material so that it blends with the principal structure, and the proposal will be constructed on a slab, with a crawl space height of approximately three to four feet.

8. Referencing Sheet A-1, previously submitted to the Board, Mr. Ferrara testified that the Applicant proposes to remove the existing septic tank connection, and connect the dwelling to the public sanitary sewer system. He testified that the Applicant's proposal will be aesthetically pleasing, it will blend in the with the rest of the neighborhood, and it will serve a pressing need for the Applicant's family.

9. Mr. Ferrara testified that the proposed ADA compliant ramp will be located in the rear of the principal dwelling, it will be prefabricated and constructed of aluminum, and it will not be a permanent fixture or improvement on the Property. He testified that the ramp may not be installed until the Applicant necessitates same.

10. William G. Hollows, P.E., P.L.S., of Murphy & Hollows Associates LLC, the Applicant's project engineer, with a business address of 192 Central Avenue, Sterling, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of Civil Engineering. Mr. Hollows introduced into evidence as **Exhibit A-2**, a colorized exhibit showing the existing conditions on the Site. He testified as to the size of the Property (1.03 acres) and existing principal dwelling, the location of the Property in the neighborhood, the existing landscaping, the surrounding roads and residential neighborhoods, as well as the associated improvements throughout the Property.

11. Mr. Hollows introduced into evidence as **Exhibit A-5**,¹ a colorized exhibit showing the Applicant's proposal, last revised April 7, 2022, and testified as to the location and size of the proposed senior suite, the proposed ADA ramp, driveway, landscaping, and utility connections.

¹ The Applicant's Architect previously submitted plans marked as Exhibits A-1, A-3 and A-4.

12. Mr. Hollows testified that the Applicant previously identified the nearest sanitary sewer location, and planned to connect to same to the south, through the neighboring property, designated on the Official Tax Map of the Township of Long Hill as Block 10104, Lot 2. He testified that the owner of said property sold same, and the Applicant now has a preliminary agreement with the owners of Block 10104, Lot 1, for a sanitary sewer easement through same. Mr. Hollows testified that the proposed sanitary sewer easement will run through undisturbed lands, such that the lateral will not disturb any existing improvements and will not require the removal of any trees. He testified that the Applicant has received preliminary approval from the Township Engineer for the proposed sanitary sewer connection and is waiting for approval from New Jersey American Water.

13. Mr. Hollows testified that the Applicant proposes a six-foot deep drywell for stormwater maintenance, which will be connected to all the roof leaders from the proposed senior suite, as well as the roof leaders from the southern half of the principal dwelling. He testified that, typically, when a septic tank is abandoned, it is filled with sand or like kind material. Mr. Hollows testified that, due to the location of the proposed senior suite, which is the same location as the existing septic tank, said tank will likely be removed under the supervision of the Board of Health, with the leaching field and underground pipes connecting same remaining abandoned in place.

14. In response to questions from the Board, Mr. Hollows testified as follows:

- a. An oversized, six-inch sanitary sewer lateral is necessary due to the slope required;
- b. No new landscaping is proposed, as there is an ample amount of trees on the Property, no trees are proposed to be removed, and, in his professional opinion, the Applicant has a beautifully landscaped Property and he would expect nothing less in the future; and
- c. Soil control permits and approvals are required as the Applicant will exceed 5,000 square feet of soil disturbance.

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

DECISION

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

The Bulk Variances – Positive Criteria:

17. 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.

18. 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.

19. 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.

20. 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 Applicant’s proposal and the stipulated to conditions, which will further mitigate such relatively modest detriment.

21. As to the requested variance relief for the excessive floor area of the proposed senior suite, the Board recognizes that the increase in floor area is relatively modest. The Board further recognizes that, while it is the Applicant itself that requires wheelchair accessibility for the proposed senior suite, granting the requested variance relief will allow the Applicant to improve the functionality and aesthetics of the Property without any substantial change to the Property or the surrounding neighborhood.

22. As such, the Board finds that the Applicant has 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:

23. 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.

24. As to the “substantial detriment” prong of the negative criteria, the Board finds that the Applicant has 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, the size and location of the principal dwelling is not changing substantially from what currently exists, and the increase in impervious surface coverage is de minimis, resulting in very little, if any, change in stormwater runoff or the neighborhood in general. The Board recognizes that no member of the public objected to the Applicant’s 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.

25. Here, the Board finds that the Applicant has 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 April 19, 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 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; and
 - b. The Applicant shall comply with the requirements and recommendations set forth in the Board Engineer's Memorandum, dated April 7, 2022, and the Board Planner's Memorandum, dated April 15, 2022, including, all necessary updating and revisions to the previously submitted plans, if necessary; and
2. The Applicant shall abandon the existing septic system and remove same in accordance with all applicable laws and regulations;
3. The Applicant shall provide to the Township Attorney and Township Engineer all recordable documents, including private sewer easements, for review and approval prior to recording with the Morris County Clerk's Office;
4. The Applicant shall meet all conditions and requirements of Ordinance Sections 124.8.b to -124.8.e, governing "senior suites," including the required deed restriction and annual certification, except as modified herein;
5. The Applicant shall submit an enlarged detail of the proposed ADA compliant ramp (from the driveway to the dwelling addition) that specifies all grades (including landing areas), as well as the height of the ramp and compliance with the Uniform Construction Code;
6. The Applicant shall submit soil mapping to the Board Engineer to verify that a drywell is an appropriate stormwater management device for this Site, or, in the alternative, should a shallow groundwater table be present, the Applicant shall conduct test pit(s) to verify the feasibility of the proposed drywell, all of which shall be subject to the review and approval of the Board Engineer;
7. The Applicant 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;

8. The Applicant shall obtain approval from New Jersey American Water for the proposed sewer service connection, as well as for review and approval of all sewer service details;

9. 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;

10. The Applicant shall comply with any and all prior conditions of approval to the extent that same would not be inconsistent with the approval granted herein;

11. The Applicant 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.;

12. 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;

13. 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;

14. 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;

15. The Applicant shall utilize a 6" sanitary sewer lateral and same shall be subject to the review and approval of the Board Engineer;

16. The Applicant shall confirm that the building addition shall be constructed as a slab on grade;


17. The Applicant shall obtain a sanitary sewer easement between the Applicant and neighboring Lot 2 in order to connect to the existing sanitary sewer main, which shall be subject to the review and approval of the Township Attorney and Township Engineer, prior to the recording of same with the Office of the Morris County Clerk; and

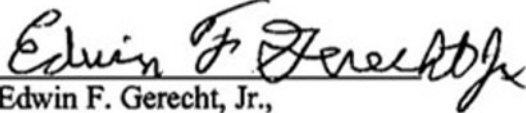
18. The approval herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the submitted plan or the improvements to be installed, which are subject to third-party jurisdiction and which require approvals by any third-party agencies. This Resolution of approval is specifically conditioned upon the Applicant' 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 to, or received by, the Applicant.

WHEREAS, a Motion was made by Vice Chairman Johnson and seconded by Mr. Gianakis to GRANT approval of the Relief Requested as set forth herein.

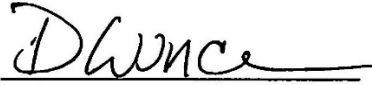
BE IT FURTHER RESOLVED, that this Resolution, adopted on May 17, 2022, memorializes the action of the Board of Adjustment taken on the Hearing Date with the following vote: Yes:, Johnson, Gianakis, Rosenberg, Lindeman, Gerecht; No: None; Recused: None; Not Eligible: None; Absent: Aroneo, Grosskopf, Hain, Brennan.


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

I hereby certify this to be a true copy of the Resolution adopted on May 17, 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 26th day of May, 2022
in said newspaper.



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 May 17, 2022:

Resolution of Approval Memorialized
Variance
Block 10104 / Lot 5.01 / Zone R-2
300 S Northfield Road
Application No. 21-24Z
Theresa Gallo

Resolution of Approval Memorialized
Variance
Block 13401 / Lot 3 / Zone R-2
125 Mountain Avenue
Application No. 21-11Z
Bishoy Sourial

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. \$35.19 05/26/T1

Sworn and subscribed before me this

30th day of JUNE 2022



Notary Public of New Jersey

