

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

**VINCENT AND LEIGH ANN SHEEHAN  
6 AARON DRIVE  
MILLINGTON, NEW JERSEY 07946  
BLOCK 10106, LOT 3  
APPLICATION NO.: 2021-08Z**

**Hearing Date: July 20, 2021  
Board Action: July 20, 2021  
Memorialization: August 31, 2021**

WHEREAS, Vincent and Leigh Ann Sheehan (the “Applicants”) are the owners of property located at 6 Aaron Drive in Millington, identified as Block 10106, Lot 3 (the “Property”) on the Long Hill Township Tax Map, in the R-2, 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 inground swimming pool and replace an existing deck 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: 20.3%; Proposed: 30%; 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 and site photographs, dated March 17, 2021;

Survey, prepared by Templin Engineering Associates, dated October 14, 2014, consisting of one sheet;

Pool Topographic Plan, prepared by Martin G. Miller III, PE, PLS, dated April 10, 2019, consisting of one sheet;

Stormwater management calculations, prepared by Martin G. Miller III, PE, PLS, dated April 10, 2019, consisting of four 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:

Memorandum from Board Planner, Elizabeth Leheny, PP, AICP, dated July 16, 2021;

Memorandum from Board Engineer, Richard Keller, PE, PP, CME, dated July 18, 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. Vincent and Leigh Ann Sheehan, Applicants; 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. Vincent and Leigh Ann Sheehan were sworn and testified describing the Property. The Applicants were not aware that the Property was undersized and did not conform to certain zoning standards at the time they purchased the Property. The Applicants propose to construct an inground swimming pool and believe that the pool will add to the aesthetics of the Property's backyard. The Applicants indicated that the location of the pool is intended to maximize use of the backyard. The rear of the Property backs up to an improved residential property and is otherwise surrounded by other improved residential properties. The Applicants testified that an existing deck was removed and replaced with a new deck in 2019. During testimony, it became clear that the area of proposed disturbance that will take place on the Property will exceed 1,000 square feet and therefore, a stormwater management system will be required. The Applicants testified that a shed depicted on the survey submitted with the Application has been removed. The Applicants indicated that a fence will be installed around the pool. The Applicants initially proposed to install a 48" aluminum fence but agreed to install a 54" fence in order to comply with Ordinance requirements. The Applicants stipulated on the record that they will comply with the Board Engineer's memorandum and will submit a landscaping plan for review by the Board professionals.

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 3 in Block 10106, more commonly known as 6 Aaron Drive, in the R-2, residential zoning district. The Property is improved with an existing single-family residence with an attached garage, rear deck and patio. Although the

Property is required to comprise a lot area of 45,000 sq. ft. and a lot width of 150 feet, the Property is undersized comprising 22,500 sq. ft. with a lot width of 110.5 feet.

2. The Applicants propose to construct a new +/- 20' by 40' inground swimming pool with a concrete patio surround. The Applicants removed an existing deck in 2019 and added a new 20' by 42' deck pursuant to a building permit obtained at that time. 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 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 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 further finds that the positive aspects of adding an inground swimming pool to a residential property is an attractive and functional improvement that outweighs any detriments.

The Board is satisfied that the Applicants' stormwater management measures and commitment to install appropriate landscaping around the proposed pool 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 pool 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 July 16, 2021.
  - c. The Applicants shall provide a breakdown of the impervious surface calculation on the Property, to the satisfaction of the Board Engineer.
  - d. The Applicants shall amend the topographic plan to add a zoning table and stormwater management measures, to the satisfaction of the Board Engineer.
  - e. The Applicants shall ensure that the stormwater management system will be designed to net zero drainage above the 20% permitted impervious coverage, to the satisfaction of the Board Engineer.
  - f. The Applicants shall amend the plans to demonstrate that a 54" fence will be installed around the swimming pool.
  - g. The Applicants shall submit a landscape plan demonstrating that landscaping will be installed around the pool in a form and manner satisfactory to the Board Engineer and Board Planner.

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.

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

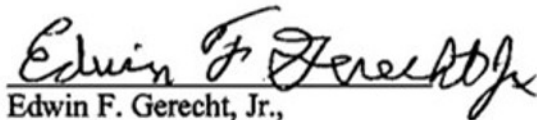
BE IT FURTHER RESOLVED, that this Resolution, adopted on August 31, 2021, memorializes the action of the Board of Adjustment taken on the Hearing Date with the following vote: Yes: Gianakis, Hain, Johnson, Malloy, Robertson, Gerecht; No: None; Recused: None; Not Eligible: None; Absent: Aroneo, Grosskopf, Rosenberg.

RESOLUTION DATE: August 31, 2021

ATTEST:




Debra Coonce,  
Board Secretary



Edwin F. Gerecht, Jr.,  
Chairman

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

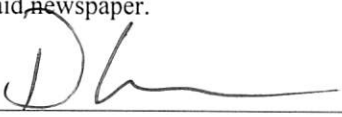
I hereby certify this to be a true copy of the Resolution adopted on June 15, 2021.

  
 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 9th day of September, 2021  
in said newspaper.



Sworn and subscribed before me this

9th day of SEPTEMBER, 2021



Notary Public of New Jersey

