

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

**FRITZ A. KIELBLOCK
183 MEYERSVILLE ROAD
GILLETTE, NEW JERSEY 07933
BLOCK 13701, LOT 32
FILE NO.: 2021-02P**

**Hearing Date: May 25, 2021
Board Action: May 25, 2021
Memorialization: July 13, 2021**

WHEREAS, Fritz A. Kielblock (the “Applicant”) is the owner of property located at 183 Meyersville Road in Gillette, identified as Block 13701, Lot 32 (the “Property”) on the Long Hill Township Tax Map, in the R-2, Residential, zoning district; and

WHEREAS, the Property consists of an approximately 4.7 acre lot currently improved with a single-family dwelling, a barn structure, sheds and associated improvements; and

WHEREAS, the Applicant proposes to raze the existing dwelling, to subdivide the Property into two new parcels, and to construct two new single-family residences, one on each new parcel; and

WHEREAS, in order to develop the Property as aforesaid, the Applicant applied to the Planning Board of the Township of Long Hill (the “Board”) with an application (the “Application”) requesting minor subdivision approval in accordance with N.J.S.A. 40:55D-47 and seeking bulk variances pursuant to N.J.S.A. 40:55D-70c for the following deviations from the requirements in the Township of Long Hill Land Use Ordinance, 1996 (the “Ordinance”) (together, the “Relief Requested”):

Maximum Building Height (Ordinance Section 131):

Permitted: 2.5 stories; Proposed: 3 stories;

Accessory Structure (Ordinance Section 134.4):

Barn accessory structure located in a front yard in contravention of Section 134.4;

Development prohibited within and/or adjacent to a critical area for both Lot 32 and proposed Lot 32.01 (Ordinance Section 142.1.a);

Setbacks from critical areas (Ordinance Section 142.1.d):

Front Yard Setback from critical area:

Lot 32 - Required: 50’; Proposed: 0’; Lot 32.01 – Required: 50’; Proposed: 0’;

Side Yard Setback from critical area:

Lot 32 – Required: 25’; Proposed: 19.9’; Lot 32.01 – Required: 25’; Proposed: 0’;

Rear Yard Setback from critical area:

Lot 32 – Required: 50’; Proposed: 15.9’; Lot 32.01 – Required: 50’; Proposed: 0’; and

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

Application with addenda and checklist dated January 3, 2021;

Plans entitled, “Minor Subdivision Plan”, prepared by Murphy & Hollows Associates, LLC, dated November 16, 2020, consisting of eight sheets;

Survey, prepared by Murphy & Hollows Associates, LLC, dated November 19, 2019;

Architectural Plans, dated January 3, 2021, consisting of five sheets, unspecified architect;

Architectural Plans, prepared by Jim O’Brien Architects, LLC, dated November 20, 2020, consisting of three sheets;

Eighteen site photographs, undated; and

WHEREAS, the Board’s professionals submitted the following reports, which reports were made a part of the record before the Board, as follows:

Report prepared by Elizabeth Leheny, AICP, PP, Phillips, Preiss, Grygiel, Leheny, Hughes, LLC, Board Planner, dated May 21, 2021;

Report prepared by, Richard Keller, PE, PP, CME, Casey & Keller, Inc., Board Engineer, dated May 21, 2021; and

WHEREAS, the following exhibits were marked into evidence during the Hearing:

Exhibit A-1: Colorized Existing Conditions Plan;

Exhibit A-2: Colorized Layout Plan; and

WHEREAS, the Applicant complied with the notification and publication requirements of the Municipal Land Use Law and the Ordinance by publishing notice in the newspaper of record and mailing notice to property owners within 200 feet of Property (“Notice”) and paid in full all property taxes due and owing for the Property and the professional fees/escrow account in connection with the Application and the Board assumed jurisdiction of the request; and

WHEREAS, the Applicant, represented by Attorney, Frederick B. Zelle, appeared before the Board on the Hearing Date and was given the opportunity to present testimony and legal

argument, and the Board's consultants and members of the public were also given an opportunity to present testimony and to comment on the Application; and

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

WHEREAS, Fritz Kielblock was sworn and provided testimony as the Applicant, as more fully set forth on the record, as follows:

Mr. Kielblock testified describing the history of the Property indicating that the Property had been used as a family farm since the 1920s. The Applicant proposes to raze the existing residential dwelling, subdivide the Property into two lots, and to construct two new residences. Mr. Kielblock described the existing trees, orchard and grape vines. Mr. Kielblock testified that the Property is not used as a commercial farm. Any produce harvested from the Property is for personal use and not for sale.

Mr. Kielblock stated that the proposed subdivision and construction of the two new dwellings will occur on a fairly flat area on the Property. The two new dwellings will be constructed in a location that was chosen in order that the orchard and other existing trees at the front of the Property not be disturbed. Mr. Kielblock testified describing the sheds and the barn on the Property indicating that those structures will be renovated and will remain on the Property. Mr. Kielblock described the elevations of the proposed new dwellings. The new dwelling proposed for new Lot 32.01 will contain a walk-out basement which is considered an additional story pursuant to the Ordinance. The dwellings will be accessed by a single shared driveway in order to preserve the orchard. Mr. Kielblock agreed, on the record, to prepare an easement for the shared use of the single driveway by the residents of the two new lots.

With regard to the steep slopes, Mr. Kielblock acknowledged that a variance is required for constructing the dwellings in a steep slope area. The location of the construction is necessary in order to retain the farm-like appearance of the Property from the road, as contemplated in the Township's Master Plan. Mr. Kielblock testified that measures will be taken to disturb as little of the steep slopes as possible during construction. Mr. Kielblock stated that commercial farming will not be conducted on the Property.

WHEREAS, William Hollows, PE, the Applicant's Engineer, provided testimony on behalf of the Applicant as more fully set forth on the record, as follows:

Mr. Hollows was sworn and provided the Board with his qualifications as a licensed professional engineer and his qualifications were accepted by the Board. Mr. Hollows testified describing the Property, the existing conditions, and the proposed plan. The Property consists of 4.74 acres. If the subdivision is approved, the Applicant will dedicate land along Meyersville Road in order to contribute toward a 33' wide right of way. Thereafter, 4.37 acres will remain. The Applicant proposes to raze the existing dwelling, to subdivide the Property into two lots and to construct two new dwellings on the separate lots. New Lot 32 will consist of 2.95 acres. Mr. Hollows described the proposed facade of the dwelling on new Lot 32 indicating that its side will be oriented toward the road. Mr. Hollows indicated that the side of the home facing the street would appear as a front facade. New Lot 32.01, the smaller of the two, will contain 1.42 acres.

The existing driveway will be extended to new Lot 32.01. Both lots conform to the minimum lot size in the R-2 zoning district. Mr. Hollows noted that both lots will conform to the bulk standards in the R-2 district, with the exception of bulk variance relief for the additional story and for the location of the dwellings adjacent to steep slopes.

Mr. Hollows stated that the dwellings will be connected to utilities that are located in and along Meyersville Road. There are no wetlands, wetlands buffers, or other environmental constraints on the Property other than the steep slopes. Mr. Hollows testified that the proposed locations of the dwellings are appropriate. The conceptual grading, as illustrated on the plans, demonstrates that the dwellings can be constructed in their proposed locations without any negative impacts downhill. Mr. Hollows noted that the dwellings will be constructed in a relatively flat location, despite being close to steep slopes. The total disturbance of the Property will comprise 17,000 to 20,000 square feet of the Property, therefore approximately 75% of the Property will remain undisturbed. Mr. Hollows stipulated on the record that the Applicant will comply with the Board Engineer's report.

WHEREAS, the Board has made the following Findings of Fact and Conclusions of Law:

1. The Property is comprised of a 4.74 acre parcel located at 183 Meyersville Road in Gillette, identified as Block 13701, Lot 32 on the Long Hill Township Tax Map, in the R-2, residential, zoning district. The Property is constrained by steep slopes and is currently improved with an existing residential dwelling and several sheds and outbuildings, including a barn located in the front yard. The Applicant proposes to raze the existing dwelling, to subdivide the Property into two conforming lots, and to construct two new residential dwellings, one on each new lot.
2. The Applicant filed an Application with the Board for the Relief Requested, as aforesaid, in order to subdivide the Property, as more fully detailed in Applicant's plans and described herein. In order to obtain minor subdivision approval and to construct two new dwellings, the Applicant requires relief from certain bulk standards related to the steep slopes present on the Property, as more fully indicated in the Relief Requested, above.
3. In order to subdivide the Property, the Applicant has applied to the Board for minor subdivision approval in accordance with N.J.S.A. 40:55D-47. In evaluating a request for minor subdivision approval, a board considers the development plan provided by the Applicant which is required to be compliant with the zoning standards in the Ordinance and the Township's requirement for minor subdivision approval.
4. The Applicant's proposal does not comply with the Ordinance relating to construction adjacent to steep slopes, as stated in the Relief Requested herein, therefore the Applicant seeks bulk variance approval in accordance with N.J.S.A. 40:55D-70c. 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 statutory criteria. The positive criteria may be established by the Applicants' 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) or 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 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.

5. The Board is satisfied that the Applicant’s proposal complies with the Ordinance’s minor subdivision requirements, subject to certain conditions, and is appropriate to the development of the Property pursuant to the Master Plan and the Ordinance. The Applicant’s proposal complies with the R-2 zoning district’s use and bulk standards and is appropriate to the site in appearance and scale. The Board finds that good cause has been shown to approve the Applicant’s request for minor subdivision approval in accordance with the conditions imposed herein.
6. With regard to the positive criteria relative to the required bulk variances, the Board finds that relief may be granted for the deviations resulting from the Applicant’s proposal to subdivide the Property and to construct two new residential dwellings, as specified in the Relief Requested. With regard to the bulk variance for an additional story on the dwelling on new Lot 32.01, the Board finds that the steep slope condition gives rise to the need for the variance for the additional story. The naturally occurring slope is unique to the Property and thereby constitutes a hardship. With regard to the bulk variance for the location of the barn in the front yard, the Board finds that the barn lawfully exists in its current location. The Board accepts the Applicant’s testimony and finds that the location of the barn predates the Ordinance and current zoning regulations. Requiring that the barn be moved or removed to comply with the current zoning standards constitutes an undue hardship. See, Hawrylo v. Board of Adjustment of Harding Township, 249 N.J. Super 568, 583 (App Div 1991). With regard to the variances for development within steep slopes and for deficient setbacks from the steep slope area, the Board finds that the proposed locations of the proposed dwellings promote purposes of the Municipal Land Use Law. See, N.J.S.A. 40:55D-2. Specifically, the Board recognizes that the Applicant’s development plan promotes purposes “a”, “e”, “g”, “i”, “j”, and “p”, in that it preserves the nature of the Meyersville farming area, it preserves open space, the environment, and a desirable visual area by locating the dwellings away from the road and not disturbing the existing orchard, and it preserves an agricultural view scape and an historic farm.
7. With regard to the negative criteria, the Board finds that the grant of the aforementioned variances will not cause substantial detriment to the public good. The location of the existing barn and the two proposed dwellings will maintain the Property’s agricultural appearance. The Applicant’s agreement to install enhanced stormwater management

measures will mitigate against any negative aspect of constructing the dwellings in a steep slope area. And, the bulk deviation from the height restriction is not substantial as the third story is only considered such due to the Ordinance's requirement that a walk-out basement be considered a story. The proposed dwelling will not appear as a three-story structure from the road. The Board further finds that the requested variances will not cause substantial detriment to the zone plan or the Ordinance. The proposed location of the new dwellings will serve to preserve the trees and the orchard in the front of the Property. The conservation of the existing barn and the preservation of the trees and orchard lend a farm-like appearance to the Property thereby preserving the historic agricultural character of the Meyersville farming area, as contemplated in the Township's Master Plan. The Board further finds that the Applicant's agreement to comply with the conditions imposed herein mitigates any negative impact to the public good or the zone plan or zoning ordinance.

WHEREAS, after deliberation, a motion was made by Deputy Mayor Rae and seconded by Vice Chairman Jones to grant approval of the Relief Requested, subject to certain conditions, as set forth herein.

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 Planning Board does hereby **GRANT** the Relief Requested, as noted above, subject to the following:

1. The Applicant shall comply with Applicant's and Applicant's witness' and professionals' testimony and representations made before the Board and with any conditions and/or restrictions imposed herein.
2. The Applicant shall comply with the Board Engineer's report dated May 21, 2021, to the satisfaction of the Board Engineer.
3. The Applicant shall add a tree removal plan to the submitted plans, to the satisfaction of the Board Engineer.
4. The Applicant shall amend the submitted plans to update the location of the current, existing septic field, to the satisfaction of the Board Engineer.
5. The Applicant shall meet enhanced stormwater management requirements, to the satisfaction of the Board Engineer.
6. The Applicant shall prepare an easement deed for the shared driveway in a manner and form satisfactory to the Board Engineer and the Board Attorney.
7. The Applicant shall not permit the barn to be used for residential purposes.
8. The Applicant shall replenish the escrow within three weeks of the adoption of the Resolution, upon notice from the Planning/Zoning Coordinator of the Township of Long Hill, or designee, if required. The grant of this Application is subject to confirmation of

payment of current outstanding real property taxes and all professional and escrow fees and supplementation of the escrow account, as needed. No building permit shall issue without the Applicant having paid all outstanding balances for any taxes, professional or escrow fees or other charges related to the Property and the Property's development in accordance with this Resolution.

9. The grant of this Application shall not be construed to reduce, modify or eliminate any applicable County, State or Federal law, requirement, rule, regulation, directive, or resolution including, but not limited to, those enacted, issued, or determined by the Morris County Planning Board, the New Jersey Department of Community Affairs, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, the United States Environmental Protection Agency and any other governmental agency or department exercising third party jurisdiction over the Property.
10. 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.
11. 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.
12. 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 or received by the Applicant.

BE IT FURTHER RESOLVED, that this Resolution, adopted on July 13, 2021, memorializes the action of the Planning Board taken on May 25, 2021 with the following vote: Yes: Ms. Dill, Deputy Mayor Rae, Mr. Malinousky, Committeeman Verlezza, Vice Chairman Jones, Chairman Sandow; No: Mr. Pfeil, Mr. Richardson; Recused: None; Not Eligible: None; Absent: Mr. Hands.

ATTEST:



Debra Coonce,
Board Secretary



Dennis Sandow,
Chairman

ROLL CALL VOTE TO APPROVE RESOLUTION OF MEMORIALIZATION
July 13, 2021

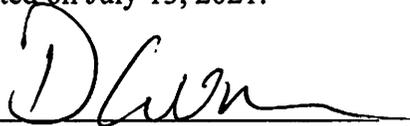
Moved By: Vice Chairman Jones

Seconded By: Mr. Malinousky

Those in favor: Vice Chairman Jones, Mr. Malinousky, Deputy Mayor Rae, Committeeman Verlezza, Ms. Dill and Chairman Sandow

Those opposed: None

I hereby certify this to be a true copy of the Resolution adopted on July 13, 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 22nd day of July, 2021
in said newspaper.



Long Hill Township
Public Notice
**NOTICE OF DECISION OF THE township of LONG HILL
planning board**

Public notice is hereby given that the following action was taken by the Township of Long Hill Planning Board at its meeting on July 13, 2021:

Resolution of Approval Memorialized
Minor Subdivision
Block 13701 / Lot 32 / Zone R-2
183 Meyersville Road
Application No. 21-02P
Fritz Kieblock

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
Planning Board Secretary
Planning & Zoning Coordinator
Township of Long Hill

P.F.\$28.05 07/22/T1

Sworn and subscribed before me this

22ND day of JULY, 2021



Notary Public of New Jersey

