

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

**NEW JERSEY AMERICAN WATER COMPANY
1227 VALLEY ROAD
STIRLING, NEW JERSEY 07980
BLOCK 10411, LOT 6.02
FILE NO.: 2020-10P**

**Hearing Date: March 25, 2021
Board Action: March 25, 2021
Memorialization: May 11, 2021**

WHEREAS, New Jersey American Water Company (the “Applicant”) is the owner of property located at 1227 Valley Road in Stirling, identified as Block 10411, Lot 6.02 (the “Property”) on the Long Hill Township Tax Map, in the R-4, Residential, zoning district; and

WHEREAS, the Property consists of an approximately 6.53 acre lot currently improved with a sewer treatment plant and appurtenant facilities that was once part of a larger tract of land, known as Lot 6, which comprised the Township’s Department of Public Works facility in addition to the sewer treatment plant; and

WHEREAS, former Lot 6 was subdivided by the Township in August of 2020 in order to create new Lot 6.01, which now solely contains the Township’s Department of Public Works facility, and the Property, which was sold to the Applicant pursuant to a public referendum authorizing the sale along with the sewer treatment plant and appurtenant facilities; and

WHEREAS, the Applicant seeks to construct a 40’ by 75’ equipment storage building consisting of 3,000 square feet, a new driveway on the western side of the proposed building on the Property together with parking, lighting and other appurtenances;

WHEREAS, in order to construct the aforesaid building, the Applicant applied to the Planning Board of the Township of Long Hill (the “Board”) with an application (the “Application”) requesting minor site plan review in accordance with N.J.S.A. 40:55D-46.1 and seeking a bulk variance pursuant to N.J.S.A. 40:55D-70c for an inadequate side yard setback of 4.48 feet where the Township’s zoning regulations require 10 feet (the “Relief Requested”); 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;

“New Jersey American Water Long Hill Twp. Sewer Treatment Plant Upgrades, 1223 Valley Road, Stirling, NJ 07980,” prepared by Joseph F. McKernan Jr., Architects & Associates consisting of 4 sheets, dated October 26, 2020;

“Long Hill Township Sewer Treatment Plant Upgrades Minor Site Plan Lot 6.02, Block 10411, Long Hill Township, Morris County, New Jersey,” prepared by Stires Associates, P.A., consisting of 4 sheets, dated October 29, 2020;

Aerial photos of site, 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 March 22, 2021;

Report prepared by, Michael Lanzafama, PE, PLS, PP, Casey & Keller, Inc., Board Engineer, dated March 15, 2021; 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

WHEREAS, the Board considered the Application during a public hearing held on the Hearing Date which public hearing was held virtually due to the public health emergency and in accordance with the Governor’s Executive Order numbered 104, as amended and extended, which limited public gatherings and required social distancing protocols; and

WHEREAS, the Applicant, represented by Attorney, Frank V. Tedesco, 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, a member of the public appeared to ask questions about and to speak with regard to the Application, as is more fully set forth on the record; and

WHEREAS, Joseph F. McKernan Jr., the Applicant’s Architect, provided testimony on behalf of the Applicant as more fully set forth on the record, as follows:

Mr. McKernan was sworn and provided the board with his qualifications as a licensed architect and his qualifications were accepted by the Board. Mr. McKernan testified describing the existing structures noting that the Property contains an existing 672 square foot building with a 240 square foot shed used for storage that are to remain. Mr. McKernan also testified describing the proposed 3,000 square foot equipment storage building that will be used for the storage of Vactor trucks. The proposed building will contain an 897 square foot mezzanine on the second

floor and will be 33'6" high. The ground floor will contain two trench drains, a storage area, a laundry room and stairs to the mezzanine level. The mezzanine level will contain the women's and men's locker rooms that will be relocated from their current location. The trench drains will be used to capture water that flows off of the vehicles and carry that water to the sewer. Mr. McKernan noted that an oil and water separator will be installed in order to ensure that only water discharges into the sewer.

Mr. McKernan testified that a new driveway will be created along the western façade of the building with a ramp leading into the west side of the building. An ADA compliant ramp will be located on the east side of the building and stairs will lead to the entrance doors: one on the east side of the building and one on the south side of the building.

With regard to the temporary trailer, Mr. McKernan testified that the Applicant applied for and received a permit for the temporary trailer from the Township's construction department in October. The temporary trailer will remain on site for approximately 18 months, the time it will take to construct the proposed development on the Property. Mr. McKernan also noted that the handicap ramp into the trailer was approved by the construction official.

With regard to the existing seepage pits, Mr. McKernan indicated that the pits will no longer be used and the stone that is located within the pits will be removed. The Applicant proposes little disturbance to the existing foundation. Mr. McKernan indicated that the slab for the proposed facility will be a structurally independent slab and that the Applicant anticipates using a piling system to construct the slab.

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

Mr. Stires was sworn and provided the Board with his qualifications as a licensed professional engineer and his qualifications were accepted by the Board. Mr. Stires testified describing the history of the site, the existing conditions, and the proposed site plan. Mr. Stires noted that the Passaic River is to the south of the site and that the site is in the flood hazard area. Wetland areas and buffers associated with the River are located on the site. The proposed building will be built largely upon an existing foundation in order to minimally displace the flood area. Mr. Stires indicated that the Applicant has obtained a general permit from the New Jersey Department of Environmental Protection ("DEP") for construction within the flood plain and has applied to the DEP for a permit to allow some minor construction within the wetland buffer. The finished floor of the proposed building will be built 18 inches above flood hazard elevation. Mr. Stires testified that once the proposed development is constructed, the temporary trailer will be removed.

With regard to utilities, Mr. Stires testified that a geotechnical investigation was performed and revealed accurate locations of utilities. The geotechnical investigation consisted of test borings in the location of the foundation and tests of the foundation, as well as ground penetrating radar to locate utilities. An existing diesel supply line located on the site is no longer active. Mr. Stires stipulated that as a condition of approval, he will submit an amended site plan showing existing utilities and how they will be accessed. Mr. Stires indicated that the Applicant will not likely need to cross over into neighboring Lot 6.01 in order access utilities.

Mr. Stires further stipulated that the site plan will be updated to show the necessary ADA compliant parking spaces and the necessary lighting. With regard to site circulation, Mr. Stires testified that the trucks will enter the site through the public works yard and then back into the building. In order to exit the site, the trucks will circulate around the driveway to the exit. Mr. Stires testified that the fill that will be used in order to raise the grade and construct the ramp to the proposed building will consist of all stone and pavement.

WHEREAS, Robert Kiser, PE, PP, the Applicant's Planner provided testimony on behalf of the Applicant as more fully set forth on the record, as follows:

Mr. Kiser was sworn and provided the Board with his qualifications as a licensed professional planner and his qualifications were accepted by the Board. Mr. Kiser testified that in addition to the minor site plan approval, the Applicant requires a bulk variance for encroaching into the required side yard setback. The required setback is 10 feet from the property line, part of an existing foundation is currently located yard 4.49 feet from the property line, and the proposed building will be located 4.48 feet from the property line.

Mr. Kiser testified that the Applicant's proposal satisfies purposes a, e, and g of the Municipal Land Use Law. The Applicant's proposal to reuse an existing foundation that was previously used by the Township preserves the environment and saves resources. Mr. Kiser stated that siting the building on the existing foundation also prevents additional encroachment into environmentally sensitive wetland areas. Mr. Kiser also noted that improving the sewer treatment facility will be a benefit to the residents of the Township at large.

Mr. Kiser indicated that the Township determined the location of the new property line during its application for subdivision. The Applicant effectively inherited the Property in its current state. Mr. Kiser further indicated that the proposed building cannot be moved away from the currently proposed location without disturbing the wetlands. Mr. Kiser indicated that the location of the proposed building is limited by DEP regulations. With regard to the negative criteria, Mr. Kiser stated that the deficient setback will not be noticeable to any residents in the neighborhood and will not negatively affect any abutting properties. Mr. Kiser found that the encroachment into the setback did not constitute a substantial detriment to the neighborhood, the zone plan or the zoning ordinance.

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

1. The Property is comprised of a 6.53 acre parcel located at 1227 Valley Road in Stirling, identified as Block 10411, Lot 6.02 on the Long Hill Township Tax Map, in the R-4, residential, zoning district. The Property is currently improved with a sewer treatment plant and appurtenant facilities and was once part of a larger tract of land belonging to the Township, known as Lot 6, which comprised the Township's Department of Public Works facility in addition to the sewer treatment plant. After the Township's sale of the sewer treatment plant to the Applicant, pursuant to a public referendum, the Township applied to the Board for approval to subdivide Lot 6 into two parcels. The Township obtained subdivision approval from the Board for application numbered 2020-05P on August 18, 2020 and created the Property and Lot 6.01. The Property has since been conveyed to the Applicant.

2. The Applicant filed an Application with the Board for the Relief Requested, as aforesaid, in order to construct a new 3,000 square foot-two story garage, with a partial mezzanine space, to house and service Vactor trucks which are used in the ongoing maintenance of the Township's sanitary sewage collection, a driveway, parking spaces, and other appurtenances, as more fully detailed in Applicant's plans and described herein. The Applicant proposes to utilize an existing foundation upon which to build the proposed building.
3. In evaluating a request for site plan approval, a board considers the development plan provided by the Applicant which is required to be compliant with the zoning and site development standards in the Township's Land Use Ordinance and the Township's requirement for site plan approval and will generally show "(1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans..." N.J.S.A. 40:55D-7. The Board's authority in reviewing an application for site plan approval is limited to determining whether the development plan conforms with the zoning ordinance and the applicable provisions of the site plan ordinance. Sartoga v. Borough of West Paterson, 346 N.J. Super 569, 581 (App. Div. 2002) certify. denied, 172 N.J. 357 (2002).
4. The Applicant's proposal does not comply with the Township's ordinances relating to bulk standards, 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. With regard to the required bulk variance, the Board finds that the deficient setback was created by the subdivision of the Property. The subdivision, in conjunction with the environmental constraints that the Applicant documented during the hearing, constitute a hardship. The Board further finds that the Applicant's reuse of the existing foundation serves to preserve resources and prevents further encroachment into the existing wetlands. The Board accepts the Applicant's Planner's testimony and agrees that the Applicant's location for the proposed garage advances several purposes of the Municipal Land Use Law despite the encroachment into the side yard. The Board is satisfied that this small encroachment will not cause substantial detriment to the neighboring properties, the public good, the zoning ordinance or the zone plan.
6. With regard to the design standards in Section 152 of the Ordinance and to the Ordinance's site planning requirements, the Board is satisfied that the Applicant's proposal, with the conditions imposed herein, comports with the intent of the Ordinance. The Board further finds that the Applicant's proposal is appropriate to the development of the Property in accordance with the Township regulations. Based upon the foregoing, the Board finds that good cause has been shown to approve the Applicant's request for minor site plan approval with the conditions imposed herein.

WHEREAS, after deliberation, a motion was made by Mr. Pfeil and seconded by Deputy Mayor Rae 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 update and resubmit its site plan for review by the Board Engineer, with the following amendments:
 - i. Depict the types and locations of all utilities on the Property.
 - ii. Indicate the location of the bollards that are shown on the architectural plan.
 - iii. Show the location and dimensions of the ADA complaint parking spaces.
 - iv. Indicate the type and location of all site lighting. The Applicant shall ensure that any lighting proposed on the site is compliant with Township requirements.
 - v. Submit a drainage plan.
3. The Applicant shall remove the temporary trailer from the Property within 30 days of receiving approval to occupy the new building, in accordance with Township regulations.

4. 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.
5. 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.
6. 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.
7. 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.
8. 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 May 11, 2021, memorializes the action of the Planning Board taken on March 25, 2021 with the following vote: Yes: Ms. Dill, Deputy Mayor Rae, Mr. Pfeil, Mr. Richardson, Mr. Malinousky, Mr. Jones, Mr. Sandow; No: None; Recused: None; Not Eligible: None; Absent: Committeeman Verlezza, Mr. Hands.

ATTEST:


Debra Coonce,
Board Secretary


Dennis Sandow,
Chairman

ROLL CALL VOTE TO APPROVE RESOLUTION OF MEMORIALIZATION
May 11, 2021

Moved By: Mr. Pfiel

Seconded By: Mr. Malinousky

Those in favor: Mr. Pfiel, Mr. Malinouski, Ms. Dill, Mr. Richardson, Mr. Jones, Mr. Sandow

Those opposed: None

I hereby certify this to be a true copy of the Resolution adopted on May 11, 2021.

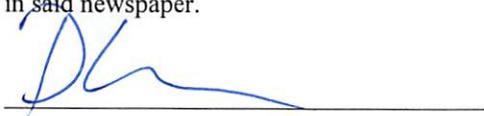
A handwritten signature in black ink, appearing to read "D Coonce", with a long horizontal line extending to the right.

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 3rd day of June, 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 May 11, 2021:

Resolution of Approval Memorialized
Preliminary & Final Site Plan w/ Variances
Block 10411 / Lot 6.02 / Zone R-4
1227 Valley Road
Application No. 2020-10P
New Jersey American Water Company

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 & Zoning Coordinator
Township of Long Hill

P.F.\$26.01 06/03/T1

Sworn and subscribed before me this

3RD day of JUNE, 2021



Notary Public of New Jersey