

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

**MISSIONARY SERVANTS OF THE  
MOST HOLY TRINITY  
1292 LONG HILL ROAD  
STIRLING, NEW JERSEY 07980  
BLOCK 14204, LOT 71  
APPLICATION NO.: 2020-11Z**

**Hearing Date: March 16, 2021  
Board Action: March 16, 2021  
Memorialization: May 18, 2021**

WHEREAS, Missionary Servants of the Most Holy Trinity (the “Applicant”) is the owner of property located at 1292 Long Hill Road in Stirling, identified as Block 14204, Lot 71 (the “Property”) on the Long Hill Township Tax Map, in the C, Conservation, zoning district; and

WHEREAS, the Property comprises 5.68 acres and is improved with a two-story frame structure, detached garage, and driveways, collectively known as the “Trinity House Retreat Center” (“Trinity House”); and

WHEREAS, Trinity House was established approximately 50 years ago as a treatment center for alcoholic priests and currently provides services for substance abusers, whether clergy or members of the public at large; and

WHEREAS, the Applicant applied to the Board of Adjustment of the Township of Long Hill (the “Board”) with a request to subdivide the Property and create two new lots, proposed lots 71.01 and 71.02, in addition to the remainder/parent lot containing Trinity House, proposed lot 71, in accordance with N.J.S.A. 40:55D-47; and

WHEREAS, the use of the Property as a treatment center is not currently permitted in the C zoning district but was a permitted use when Trinity House was established approximately 50 years ago thus the Applicant’s use of the Property is considered a legal preexisting nonconforming use; and

WHEREAS, the requested subdivision will proportionally expand the preexisting nonconforming use, Trinity House, by decreasing the size of the lot upon which the use is located therefore the Applicant applied to the Board with a request for a variance in accordance with N.J.S.A. 40:55D-70d(2); and

WHEREAS, the lots resulting from Applicant’s proposed subdivision do not comply with certain bulk standards of the C zoning district therefore the Applicant has applied for relief in accordance with N.J.S.A. 40:55D-70c; and

WHEREAS, the Applicant requested the following relief from the Board (the “Relief Requested”):

Minor Subdivision approval in accordance with N.J.S.A. 40:55D-47;

Use variance in accordance with N.J.S.A. 40:55D-70d(2) for an expansion of a preexisting nonconforming use:

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:

Proposed Lot 71:

Minimum Front Yard Setback (Ordinance Section 131) – Existing Condition:  
Required: 75’; Existing and Proposed: 27.2’;

Proposed Lot 71.01:

Minimum Lot Area (Ordinance Section 131):  
Required: 3 acres; Proposed: 1.35 acres;

Minimum Lot Width (Ordinance Section 131):

Required: 250’; Existing and Proposed: 232.46’;

Proposed Lot 71.02:

Minimum Lot Area (Ordinance Section 131):  
Required: 3 acres; Proposed: 1.15 acres;

Minimum Lot Width (Ordinance Section 131):

Required: 250’; Existing and Proposed: 201.21’; 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:

Application with addenda, dated December 1, 2020;

Subdivision Plan, entitled “Lot 71 Block 14204 Long Hill Road & Pleasant Plains Road Township of Long Hill Morris County New Jersey”, prepared by Murphy & Hollows Associates LLC, dated March 23, 2020, last revised, October 19, 2020;

Survey, prepared by Murphy & Hollows Associates LLC, dated March 23, 2020; 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 consultants:

Memorandum from Board Planner, Elizabeth Leheny, PP, AICP, dated March 10, 2021;

Memorandum from Board Engineer, Richard Keller, PE, PP, CME, dated March 15, 2021; and

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

- Exhibit A-1 Sheet 3 of 9, colorized;
- Exhibit A-2 Sheet 5; and

WHEREAS, during the public hearing on the Application on the Hearing Date, the Applicant, represented by attorney Frederick B. Zelle, was 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 Applicant presented testimony from the following individuals:

1. Father Dennis Berry, Applicant's representative;
2. William Hollows, PE, Applicant's Engineer; and

WHEREAS, members of the public appeared to ask questions about or to speak with regard to the Application, as set forth fully on the record. The dominant concerns brought to the Board by the public related to stormwater runoff and concerns regarding the use of Trinity House; and

WHEREAS, the Applicant introduced the Application and presented testimony to the Board as more fully set forth on the record, as follows:

1. Father Dennis Berry was placed under oath and testified that he currently serves as the director of Trinity House and St. Joseph's Shrine. Father Berry indicated that the Trinity House treatment facility is a facility that provides services to people recovering from addiction. Father Berry indicated that, at one time, primarily served clergy but now serves the public at large. Trinity House also serves as a spiritual retreat center and hosts meetings. Clients of the center receive treatment or stay at the facility for spiritual retreats from a few hours to three days. Father Berry indicated that two priests and three volunteers reside in Trinity House but patients do not reside in the facility.

2. William Hollows was sworn, provided his qualifications and was accepted by the Board as a licensed professional engineer. Mr. Hollows testified describing the Property and the location of the Property relative to other properties in the area. The properties in close proximity to the Property are located in the R-2 zone. Mr. Hollows described the proposed subdivision, noting that the C zone requires 3 acres. The remainder lot containing the Trinity House will meet the zone requirements for lot size but requires a variance for the setback of the facility. The remainder lots will not conform to the C zone but will conform to the R-2 zone which is adjacent to the Property. The lots across Pleasant Plains Road and the lots to the north are 30,000 square feet in size. Other subdivisions in the R-2 zone comply with the 45,000 square foot lot size requirement. The Applicant is attempting to ensure that the two new lots conform to surrounding properties.

Mr. Hollows testified that the two new lots will be able to be developed with conforming homes without the need for further variance relief. Mr. Hollows testified that permeability tests were performed on the property which could support septic systems. With regard to stormwater, Mr. Hollows testified that that any increase in stormwater would be mitigated upon development of the lots.

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Property is comprised of a 5.68 acre parcel designated as Lot 71 in Block 14204, known as the Trinity House, located at 1292 Long Hill Road, in the C, conservation zoning district. The Property is improved with an existing retreat and substance abuse support and treatment facility. The Trinity House was established and used as a treatment facility for more than 50 years, before the establishment of the C zoning district regulations. The Property abuts the Sunrise Detox Center to its east. The Property contains unimproved woodlands to its north and shares a border with a residential property at its northeast corner. All of the surrounding uses, with the exception of the Sunrise Detox Center, are residential uses located in the R-2 zoning district. The proposed use of the Property as a retreat and substance abuse support and treatment facility is not currently permitted in the C zoning district but was once permitted. The Applicant provided a letter dated October 2, 1987 from the Township's planning consultant in order to demonstrate that the Property's use as a substance abuse retreat and treatment facility was once permitted under the zoning regulations affecting the Property at the time the facility was established.

2. The Applicant proposes to subdivide the Property to create a total of three lots, the parent lot containing the Trinity House facility and two new vacant building lots. Since the Applicant's use of the Property is not permitted and will be expanded as a result of the reduction of the lot size occasioned by the proposed subdivision, the Applicant has applied to the Board for a variance in accordance with N.J.S.A. 40:55D-70d(2). The Applicant's proposed new lots contain deviations from certain bulk standards in the C zoning district, as enumerated in the Relief Requested. Thus, the Applicant has requested relief from the Board in the form of bulk variances in accordance with N.J.S.A. 40:55D-70c(1) and (2) in addition to its request for minor subdivision approval pursuant to N.J.S.A. 40:55D-47.

3. The Applicant has taken the position that the use of the Trinity House is inherently beneficial under the law. So called "inherently beneficial" uses are defined as uses that are universally considered of value to the community because they fundamentally serve the public good and promote the general welfare. See, N.J.S.A. 40:55D-4. Inherently beneficial uses are generally non-commercial, institutional, and/or religious uses. See, Kali Bari Temple v. Readington Board of Adjustment, 271 NJ Super 241, 247-248 (App Div 1994). The Board recognizes that the Trinity House was established by the Missionary Servants of the Most Holy Trinity to support treatment and to provide spiritual guidance and rehabilitation of substance abusers. The Board further recognizes that the use is not a commercial use and is open to the public. The Board is satisfied that the Applicant has established that the use of the facility is "inherently beneficial" under the law as it inherently serves the public good and promotes the general welfare by providing spiritual support and substance abuse treatment.

4. All jurisdictional requirements of the Application were met and the Board proceeded to hear the Application and render its determination which is memorialized herein.

5. The Applicant applied for a use variance pursuant to N.J.S.A. 40:55D-70d(2) in order to expand a preexisting nonconforming use as aforesaid. Generally, in order for the Board to grant a “d” variance permitting an expansion of a nonconforming use, the Board must ensure that the Applicant has satisfied the positive criteria – that “special reasons” exist for the variance. In this case, however, the Applicant has established that its use is an inherently beneficial use, therefore it presumptively satisfies the positive criteria. As such, the Board finds that the Applicant’s use is inherently beneficial in that it presumptively promotes the general welfare and therefore satisfies the positive criteria.

In order to satisfy the negative criteria for a “d” 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. In a case involving an inherently beneficial use, boards are required to apply a balancing test to determine whether a use variance may be granted. First, the Board must identify the public interest at stake. Second, the Board should identify the detrimental effect that will ensue from the grant of the variance. Third, in some situations, the Board may reduce the detrimental effect by imposing reasonable conditions on the use. Fourth, the Board should then weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good. Sica v. Board of Adjustment of Tp. Of Wall, 127 NJ 152, 165-166 (1992).

6. 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.

7. In order to evaluate a request for minor subdivision approval, a board considers the subdivision plan provided by the Applicant which is required to be compliant with the zoning and subdivision standards in the Ordinance. The Board finds that the Applicant has complied with the Township's standards governing subdivisions. The Board finds that good cause has been shown to grant the proposed subdivision subject to the conditions that have imposed herein.

8. The Board finds that the expansion of the Applicant's inherently beneficial nonconforming retreat and treatment facility use presumptively satisfies the positive criteria, as aforesaid. The Board further finds that the Applicant has satisfied the negative criteria and believes that a "d(2)" use variance may be granted to allow the expansion because the decrease in the lot size does not cause any substantial detriment to the public good, the zone plan or the zoning ordinance. The Applicant's use of the Property provides an important public service in providing treatment and spiritual guidance to individuals suffering from substance abuse issues. The Applicant's proposal will not change the use of the parent lot containing the Trinity House. The facility will continue to be used in the same manner as it has been used for well over 50 years. The Applicant's agreement to add a number of trees above Ordinance requirements will serve to further shield the use from other properties in the neighborhood and will serve as a benefit to the surrounding neighbors. The Property, despite the decrease in lot size, will continue to be able to accommodate the use without any additional substantial impact, will not change in appearance, and, as such, will not substantially impair the zone plan or the zoning ordinance. The Board finds that the Applicant has satisfied the test as required by the Supreme Court in Sica, as cited above.

9. The Applicant requested that the Board bifurcate its consideration of the bulk variances for lot size and width, as aforesaid, required by the subdivision for the two newly proposed lots. The Board agreed and analyzed those bulk variances separately. With regard to the newly proposed lots, the Board finds, overall, that the proposed size, although deficient, presents a better zoning alternative than maintaining the size required under the C zoning regulations. The decreased size of the new lots corresponds to the other lots in the adjacent neighborhood and thereby constitutes an appropriate use of the land. Developing the remainder lot as one lot rather than two would serve to create a larger property with a potentially larger residential structure that would be out of character when compared to the surrounding properties along Pleasant Plains Road. The granting of the variances serves to expand an existing neighborhood and the benefits of granting the variances outweigh any detriments. The Board acknowledges that the Applicant intends to offer the newly created lots for sale as residential building lots which are permitted in both the C zoning district and the adjacent R-2 zoning district. The Board further acknowledges that any stormwater issues will be addressed before the newly created lots are developed. In accordance with the foregoing, the Board finds that the bulk variances sought will not substantially impair 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 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.
- b. The Applicant shall comply with the Board Engineer's report dated March 15, 2021.
- c. The Applicant shall address stormwater management of the newly created lots at the building permit stage, to the satisfaction of both the Board Engineer and the Township Engineer.
- d. The Applicant shall test the groundwater and provide said testing, to the satisfaction of the Board Engineer.
- e. As stipulated on the record, the Applicant has agreed to provide trees in order to buffer the newly created lots from the parent lot in an amount that exceeds the Township's tree replacement requirement. The Applicant shall provide a plan demonstrating the location of the replacement trees in a form and manner that is satisfactory to the Board Engineer.
- f. As stipulated on the record, once subdivided, the Applicant shall not continue to use the two newly created lots in conjunction with the retreat and treatment facility use.

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 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.

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 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.

5. In accordance with the adopted ordinance provisions and the current requirements of the Township of Long Hill, to the extent applicable, the Applicant 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 Applicant's 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, the Relief Requested was bifurcated and the requests for the minor subdivision approval with the associated use variance in accordance with N.J.S.A. 40:55D-70d(2) and the bulk variances required for the newly created lots were considered separately, as follows:

A motion was made by Mr. Aroneo and seconded by Vice Chairman Johnson to GRANT approval of the minor subdivision with the d(2) variance, as set forth herein. The vote is as follows: Yes: Mr. Aroneo, Vice Chairman Johnson, Mr. Gianakis, Mr. Grosskopf, Mr. Malloy, Mr. Rosenberg, Chairman Gerecht; No: None; Recused: None; Not Eligible: Mr. Hain; Absent: Mr. Pesce;


A motion was made by Mr. Grosskopf and seconded by Mr. Aroneo to GRANT approval of the required bulk variances for the newly created lots, as set forth herein. The vote is as follows: Yes: Mr. Grosskopf, Mr. Aroneo, Mr. Gianakis, Mr. Malloy, Mr. Rosenberg, Chairman Gerecht; No: Vice Chairman Johnson; Recused: None; Not Eligible: Mr. Hain; Absent: Mr. Pesce;

BE IT FURTHER RESOLVED, that this Resolution, adopted on May 18, 2021, memorializes the actions of the Board of Adjustment taken on the Hearing Date as aforesaid.

RESOLUTION DATE: May 18, 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>M</b>				
GIANAKIS	<b>X</b>				
GROSSKOPF	<b>2ND</b>				
MALLOY					<b>X</b>
ROSENBERG	<b>X</b>				
HAIN – ALT 1			<b>X</b>		
ROBERTSON – ALT 2			<b>X</b>		

I hereby certify this to be a true copy of the Resolution adopted on May 18, 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 3rd day of June, 2021  
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 18, 2021:

**Resolution of Approval Memorialized**  
Minor Subdivision  
Block 14204 / Lot 71 / Zone C  
1292 Long Hill Road  
Application No. 2020-11Z  
Missionary Servants of the Most Holy Trinity

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  
Zoning Board of Adjustment Secretary  
Planning & Zoning Coordinator  
Township of Long Hill

P.F.\$27.03 06/03/T1

Sworn and subscribed before me this

3<sup>RD</sup> day of JUNE, 2021



Notary Public of New Jersey

