

Planning & Real Estate Consultants

March 10, 2021

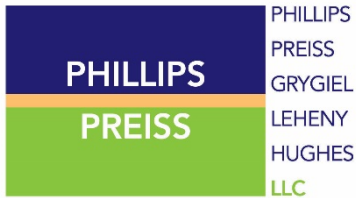
Edwin F. Gerecht, Jr., Chair  
Long Hill Township Zoning Board of Adjustment  
915 Valley Road  
Gillette, New Jersey 07933

RE: **Application: 2020-11Z**  
**Applicant: Missionary Servants of the Most Holy Trinity**  
**Subdivision with Use Variance**  
**1292 Long Hill Road**  
**Block 14204 Lot 71**  
**C Conservation Zone**

Dear Chair Gerecht and Members of the Board:

The following is a review letter of the above-referenced development application. The following documents have been reviewed:

- Application for Development to the Township of Long Hill, dated 12/1/2020, including addendum.
- Attachments to the Application of Development, including:
  - Photographs of “Lot 71 Block 14204 1292 Long Hill Road & Pleasant Plains Road, Long Hill Township,” consisting of 5 sheets.
  - Copy of Deed from Deed Book 2205 Pages 82-85, dated 2/4/1972.
  - Resolution of the Passaic Township Planning Board for Application No. 87-33P, dated 12/14/1987.
  - Application for Development to the Township of Passaic, dated 9/16/1987, including Fee Transmittal Form.
  - Review Letter entitled “Passaic Township Development Application No. 87-33P Site plan waiver Missionary Servants 1292 Long Hill Road R-2 Zone,” prepared by Carl G. Lindbloom Associates, dated 10/2/1987.
  - Morris County Planning Board Review Letter for “Plat or Site-Plan Name: Missionary Servants of the Most Holy Trinity; Location: Long Hill Rd,” dated 9/28/1987.
  - Passaic Township Police Department Review for Proposal #87-33P Missionary Servants, dated 9/24/1987.
  - Review Letter entitled “Missionary Servants Site Plan Waiver Block 219 Lot 71 Long Hill Road,” prepared by Pluymers, Williamson and Associates, Inc., dated 9/23/1987.
  - Letter of Referral for “Application No. 87-33P Block 219 Lot 71 Location: 1292 Long Hill Road Applicant: Missionary Servants of the Most Holy Trinity Present Address: 1292 Long Hill Road Stirling, NJ 07980,” issued by Linda G. Roller, Passaic Township Planning Board Secretary, dated 9/21/1987.



Planning & Real Estate Consultants

- Letter from Brother Paul Michalenko, S.T. to Passaic Township Planning Board, dated 9/16/1987.
- Subdivision Plan of “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 3/23/2020, last revised 10/19/2020.
- Survey of “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 3/23/2020.

According to the applicant, the subject property has been utilized by the Missionary Servants of the Most Holy Trinity as the Trinity House Retreat Center (former St. Joseph Villa), which offers treatment and support for alcoholic priests, for more than 50 years. The applicant now seeks to subdivide the property into three lots: two single-family residential lots and the remaining lot that will maintain the Trinity House.

#### **Description of Site and Surroundings**

The subject property is 5.68 acres in size, with curved frontage along Pleasant Plains Road along its northern and western property lines which intersects with frontage along Long Hill Road to the south. The southern portion of the property is currently developed with a 2-story frame dwelling (the Trinity House Retreat Center, formerly St. Joseph Villa) and detached garage, with paved driveways leading to the structures from Long Hill Road and Pleasant Plains Road. The majority of the property to the north is unimproved woodlands, except for a small shed and a pathway.

The subject property abuts the Sunrise Detox Center along the majority of its eastern property line, and also shares a border with a single-family residence to the northeast. The subject property and the adjacent Sunrise Detox Center property are designated in the C Conservation Zone, while other properties surrounding these two properties are all residential uses located in the R-2 zone.

#### **History and Proposed Development**

According to the Addendum to Subdivision Application submitted by the applicant, the subject property has long been utilized by the Missionary Servants of the Most Holy Trinity as a facility for the treatment of alcoholic priests and support for families of alcoholics. Originally, a Father of the Missionary founded the “Serenity Retreat League” in 1964 at the Trinity House that offered “spiritual support and encouragement to the families of alcoholics.” It appears that this program was modified at some point in time, as the applicant indicates that the Trinity House has “provided treatment to alcoholic priests for more than 50 years.” The applicant indicates that this existing religious/addiction support use will be continued at the Trinity House.

The applicant now seeks to subdivide the property into three lots: Proposed Lots 71.01 and 71.02, both fronting on Pleasant Plains Road to the north, that will be developed for single-family residences; and remaining Lot 71 that will encompass the southern portion of the property containing the Trinity House and associated improvements. No changes are proposed to the new Lot 71 portion. On each of the single-family lots, the applicant proposes to clear certain wooded areas to accommodate a residential building, septic system, and driveway on Pleasant Plains Road.

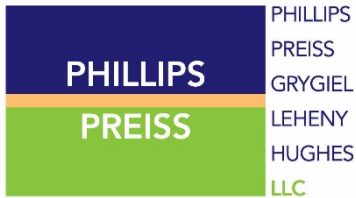
**Compliance Review**

The table below compares the proposed lots against the regulations in the C zone.

	Requirement	Proposed Lot 71	Proposed Lot 71.01	Proposed Lot 71.02
Use	Single-family; agricultural; public; community residences; equine	<b>*Institutional/ Alcohol addiction support</b>	Single-family	Single-family
Min Lot Area (ac)	3	3.18	<b>*1.35</b>	<b>*1.15</b>
Min Lot Width (ft)	250	342.09	<b>*232.46</b>	<b>*201.21</b>
Min Floor Area (sf)	1,500	No change	?	?
Max Building Height	2.5 stories/35 ft	2 stories	?	?
Min Front Yard (ft)	75	<b>*27.2 (Pleasant Plains)</b>	> 75	> 75
Min Side Yard (ft)	25	> 25	> 25	> 25
Min Aggregate Side Yard (ft)	30% of lot width at building line	> 30%	> 30%	> 30%
Min Rear Yard (ft)	50	**N/A	**N/A	> 50
Max Lot Coverage	15%	13.3%	< 15%	< 15%
Min Contiguous Noncritical Land (sf)	20,000 (for residential lots with septic)	N/A	58,806	50,094
Max Coverage in Noncritical Area	70%	13.5%	< 70%	< 70%
Min Setback from Critical Area (ft)	50 (front/rear) 25 (side)	> 50	N/A	N/A

\*Indicates that a variance is needed

\*\* The Board should note that this is a corner lot. Section LU-133.1 requires that both street frontages are considered front lot lines. In prior applications, the Board has interpreted the remaining two lot lines as side lot lines, i.e., a corner lot has no rear lot line.



Planning & Real Estate Consultants

1. D(2) Variance

It is not entirely clear what type of use has operated on the site, and what is being proposed to continue at the site. Nevertheless, neither institutional uses nor alcohol addiction support uses are permitted in the C zone. The applicant has submitted documentation related to a 1987 application for this site, which sought to convert a bay in the garage for the Trinity Ministries Center into private office space. The application materials indicate that the property was designated in the R-2 zone at the time, and the review letter by the Planning Board Planner then noted that the use was a permitted conditional use. The “permitted conditional use” is likely referring to “Institutional Uses”, which have been conditionally permitted in the R-2 zone and are defined by the ordinance as “any semipublic use, such as but not limited to churches, cemeteries, lodges and similar uses.”

Based on the information described above, the applicant submits that the use is an existing nonconforming use that was made noncompliant by the site’s rezoning into the present C zone. This analysis is valid if the past and present use are both characterized as an “Institutional Use”, or if the alcohol addiction treatment/retreat program has been a part of the Trinity Ministries Center/Trinity House since the 1980s to present. In either case, a d(2) variance for expansion of non-conforming use shall be required. The application is considered an “expansion” of a non-conforming use because decreasing the size of the lot amounts to a proportional expansion of the use.

2. C Variances

As shown in the table, several bulk variances are also required:

- Proposed Lot 71: Deficient front yard setback of 27.2 feet from Pleasant Plains Road, whereas 75 feet required.
- Proposed Lot 71.01
  - Deficient lot area of 1.35 acres, whereas 3 acres required.
  - Deficient lot width of 232.46 feet, whereas 250 feet required.
  - The Subdivision Plan does not indicate the proposed building height or total floor area of the single-family dwelling. Variances shall be required if the dwelling is proposed to exceed 2.5 stories/35 feet in height or 1,500 square feet in total floor area.
- Proposed Lot 71.02
  - Deficient lot area of 1.15 acres, whereas 3 acres required.
  - Deficient lot width of 201.21 feet, whereas 250 feet required.
  - The Subdivision Plan does not indicate the proposed building height or total floor area of the single family dwelling. Variances shall be required

if the dwelling is proposed to exceed 2.5 stories/35 feet in height or 1,500 square feet in total floor area.

### Planning Review Comments

1. The applicant shall provide testimony and additional documentation to explain the history of the site and the use being proposed. The applicant should clarify when the site was first established for use by the Missionary Servants of the Most Holy Trinity, the use(s) and programs that have taken place at the site since the initial establishment, previous zoning designations and compliance as they relate to the previous use(s), and the present use that is being proposed.

Regarding the present use, particular issues that need to be clarified include the scope and nature of alcohol addiction “treatment” and “support” program offered; whether the program is restricted to priests, members of the Missionary, or open to the general public; if the program is the sole use of the Trinity House on the site; and the role of the Missionary (does it run the program in-house? Contract/partner with medical professionals? Rent out the Trinity House to third-party operators or detoxification service providers?)

2. The application is for the expansion of a non-conforming use. An applicant for a d(2) variance permitting expansion of a lawfully created preexisting nonconforming use must satisfy the same positive and negative criteria test as other d variance applicants. However, the standard is more relaxed than a d(1) use variance and the Applicant need not show that the site is particularly suitable.

Further, the Applicant’s position is that the proposed use is inherently beneficial. The MLUL defines “inherently beneficial” use as “a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such uses include, but are not limited to, a hospital, school, childcare center, group home, or a wind, solar or photovoltaic energy facility or structure.” The New Jersey Court in Sica v. Wall Township Board of Adjustment, 127 N.J. 152 (1992) established that, if a use is inherently beneficial, then by its very existence it serves the public welfare and satisfies special reasons, i.e., the positive criteria.

The Applicant must instead address the four-part “Sica” test which is as follows:

- First, identify the public interest at stake and make a finding on how compelling the public interest in the proposed use at issue actually is as compared to other inherently beneficial uses.

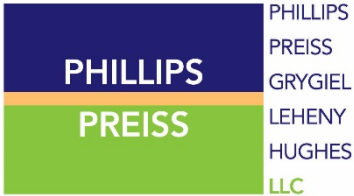
- Second, identify the detrimental effects that will ensue from the grant of the variance.
- Third, determine whether any legitimate detrimental effects can be reduced by imposing reasonable conditions on the use.
- Fourth and last, balance the positive and negative criteria and determine whether, on balance, the “d” variance can be granted without causing substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance.

As noted previously, the applicant should provide testimony to clarify the proposed use. Once the use has been clarified, the applicant is required to provide testimony to support the designation of the use as inherently beneficial. If the Board agrees that the proposed use is inherently beneficial, the Applicant must address the four-part “Sica” test described above. If the Board determines the use is not “inherently beneficial” then the Applicant shall provide alternative special reasons to justify the positive criteria of the d(2) variance request. In addition, the Applicant must also address the negative criteria, that the variance can be granted “without substantial detriment to the public good” and “without substantial impairment to the intent and purpose of the zone plan and zoning ordinance” of the municipality.

3. The applicant should provide the proposed heights and total floor areas of the single-family dwellings to demonstrate compliance with C zone standards. Alternatively, the applicant may stipulate to a condition of approval that the single-family dwellings will conform with height and floor area standards.
4. In the case of “c” variances, the MLUL at N.J.S.A. 40:55D-70c allows for two basis of proof: 1) that by reason of exceptional physical, topographic, or other extraordinary condition uniquely affecting the property, the strict application of the regulations would result in practical difficulties or exceptional and undue hardship; or 2) that the purposes of the MLUL would be advanced and the benefits of granting the variance outweigh the detriments. In either case, the applicant must also satisfy the negative criteria.

The applicant shall provide testimony to justify the requested “c” variances related to deficient lot areas, lot widths, and setbacks.

5. The applicant indicates that the subject property is 5.68 acres. However, the official Long Hill Township Tax Maps and NJ Property Tax List both indicate that the subject property is 5.25 acres. The applicant shall address this discrepancy



Planning & Real Estate Consultants

and correct the proposed lot areas and dimensions of the subdivided lots if necessary.

6. We defer to the Board Engineer on any comments related to tree removal, construction details, stormwater and septic systems, grading, parking, traffic and circulation, and other concerns related to site improvements.

We trust that the above information is responsive to your needs.

Respectfully submitted,

---

Elizabeth Leheny, AICP, PP

cc: Debra Coonce  
Rich Keller, PE, PP, CME  
Jolanta Maziarz, Esq.

J21077