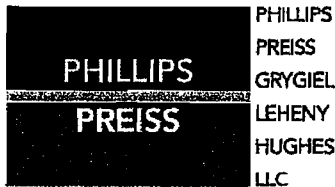


JUN 07 2019

ANNEX DEPT.  
MORRIS PLAINS, NJ

Planning &amp; Real Estate Consultants

PHILLIPS  
PREISS  
GRYGIEL  
LEHENY  
HUGHES  
LLC**Memorandum**

**To:** Borough of Morris Plains Zoning Board

**From:** Elizabeth C. Leheny, AICP, PP

**Date:** June 6, 2019

**Cc:** Leon Hall, PE  
Michael Sullivan, Esq.

**Re:** Zoning Board Application #BA-4-19  
49 Dogwood Road  
Block 72, Lot 12  
R-2 Residential Zone  
Completeness of Application

We have reviewed the following application documents submitted in regards to the aforementioned application to determine completeness from a planning standpoint:

- Application for Development, dated May 21, 2019 and signed by Denise Yuliano
- Checklist F- Variances and Appeals
- Board of Adjustment Resolution No. 14-05
- Explanation of Zoning Denial
- Letter from Fire Subcode Official dated May 21, 2019
- Letter from Morris County Planning Board dated May 28, 2019 and signed by Christine G. Marion
- Photographs of adjacent homes on Dogwood Road
- Floorplans and elevations for Pride Residence prepared by Heyrich Architects and dated April 15, 2019
- Plot plan signed by Steven I. Smith and John Gribbin and dated February 4, 2019

**A. PROPOSED PROJECT**

The applicant is proposing to construct a single-family home on vacant land. The home will be two stories and have an attached three car garage and five bedrooms. The lot does not front on a street and is characterized by steep slopes. Variances will be required to build a home which does not front on a street and to disturb the steep slopes on site.

In 2014, the Board granted the applicant (Application No. BA-6-11) permission to construct a single-family home on the subject property including a variance to permit construction of a single-family home which does not front a public street; a variance to permit disturbance in steep slope areas with 20 percent or greater slope; and a design waiver to allow regrading of one foot or more within five feet of an adjoining property. The approval was later rescinded in 2014 due to nondisclosure of an easement between the subject lot (Block 72, Lot 12) and the lot which is located between the subject lot and the Dogwood Road (Block 72, Lot 10).

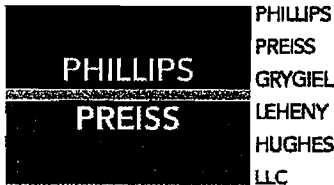
**B. COMPLETENESS**

We have reviewed the application for completeness and have the following comments:

33-41 Newark Street  
Third Floor, Suite D  
Hoboken, NJ 07030  
201.420.6262  
www.phillipspreiss.com

*In / mail Applicant*

*sent  
6/7/19*



PHILLIPS  
PREISS  
GRYGIEL  
LEHENY  
HUGHES  
LLC

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## **CHECKLIST F**

**Item 2:** This item requires a completed Application for Development form.

**#12** of the application requires all prior resolutions regarding this property. The applicant has included a resolution relating to the Zoning Board rescinding the applicant's approval for Application No. BA-6-11. It is unclear from this resolution if a resolution of approval for Application No. BA-6-11 was ever adopted prior to the approval being rescinded. If a resolution of approval for Application No. BA-6-11 was adopted, recommend the applicant provide it, as well as any other resolutions related to this property.

**# 13** of the application requires that a copy of the notice to appear in the official newspaper of the municipality be attached. The applicant did not provide a copy of the notice. Recommend the applicant provide a copy of the notice.

**Item 8:** This item requires certification from Tax Collector that no taxes or assessments are due or delinquent. Such certification was not provided. Recommend that the applicant provide the tax certification.

**Item 15:** This item requires that if there has been a previous application involving the premises in question, the date of filing, the nature of the request, and the disposition made. Same as #12 above.

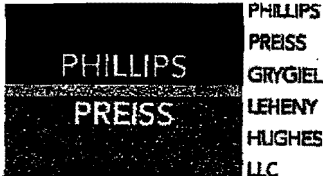
**Item 16:** This item requires the applicant state whether applicant or owners own, or have under contract purchase, any adjoining lands. Set forth lot(s) and block(s) numbers. Such statement was not provided. Recommend the applicant provide the statement.

**Item 19:** This item requires location, size, nature, purpose and text of all existing right-of-way, easement, protective or restrictive covenants, agreements and any other encumbrances or restrictions on or effacing the subject property. The applicant shows the existence of easements on the plot plan but does not provide text of these easements. Recommend the applicant provide texts of the easements impacting the property.

**Item 24f:** This item requires colored photographs of each residence located along the same street within 200 feet of the property. The applicant provided black and white photographs of properties along Dogwood Road within 200 feet of the property. Defer to Board as to whether the black and white photographs are sufficient.

**Item 24(g)(1)-(4):** This item requires lot dimension information for lots within 500 feet of the extreme limits of the property. The applicant is proposing to construct a home that is fully conforming to the bulk standards of the R-2 zone. Waivers requested and recommended.

**Item 26:** This item requires freshwater wetlands information. Waiver requested and deferred to Board Engineer Hall.



Planning & Real Estate Consultants

## Memorandum

**To:** Borough of Morris Plains Zoning Board

**From:** Elizabeth C. Leheny, AICP, PP

**Date:** June 6, 2019  
REVISED January 23, 2020

**Cc:** Leon Hall, PE  
Michael Sullivan, Esq.

**Re:** Zoning Board Application #BA-4-19  
49 Dogwood Road  
Block 72, Lot 12  
R-2 Residential Zone  
Completeness of Application

We have reviewed the following application documents submitted in regards to the aforementioned application to determine completeness from a planning standpoint:

- Amended Application for Development, dated December 20th, 2019 and signed by Denise Yulliano with Rider to Application and Checklist
- Checklist F-Variances and Appeals
- Certification of Laura Cummings, Executive Director of Southeast Morris County Municipal Utilities Authority dated December 18, 2019
- Easements and Agreements
- Board of Adjustment Resolution No. 14-05
- Proposed legal notice of public hearing
- Certified list of Property Owners
- Explanation of Zoning Denial
- Letter from Fire Subcode Official dated May 21, 2019
- Letter from Morris County Planning Board dated May 28, 2019 and signed by Christine G. Marion
- Photographs of adjacent homes on Dogwood Road
- Floorplans and elevations for Pride Residence prepared by Heyrich Architects and dated April 15, 2019
- Plot plan signed by Steven I. Smith and John Gribbin and dated February 4, 2019 with revisions through October 21, 2019.

### A. PROPOSED PROJECT

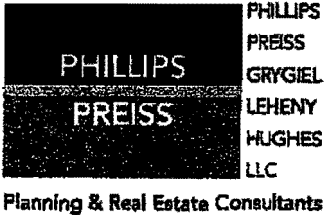
The applicant is proposing to construct a single-family home on vacant land. The home will be two stories and have an attached three car garage and five bedrooms. The lot does not front on a street and is characterized by steep slopes. Variances will be required to build a home which does not front on a street and to disturb the steep slopes on site.

In 2014, the Board granted the applicant (Application No. BA-6-11) permission to construct a single-family home on the subject property including a variance to permit construction of a single-family home which does not front a public street; a variance

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Third Floor, Suite D  
Hoboken, NJ 07030  
201.420.6262  
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*Ex/ Mail Applicant*

*Next  
Bd*



to permit disturbance in steep slope areas with 20 percent or greater slope; and a design waiver to allow regrading of one foot or more within five feet of an adjoining property. The approval was later rescinded in 2014 due to nondisclosure of an easement between the subject lot (Block 72, Lot 12) and the lot which is located between the subject lot and the Dogwood Road (Block 72, Lot 10).

**B. COMPLETENESS**

We have reviewed the application for completeness and have the following comments:

**CHECKLIST E**

**Item 8:** This item requires certification from Tax Collector that no taxes or assessments are due or delinquent. Such certification was not provided. Recommend that the applicant provide the tax certification.

**Item 24(g)(1)-(4):** This item requires lot dimension information for lots within 500 feet of the extreme limits of the property. The applicant is proposing to construct a home that is fully conforming to the bulk standards of the R-2 zone. Waivers requested and granted.

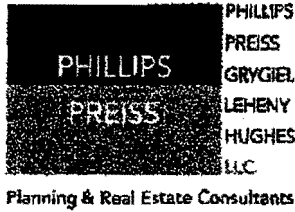
**Item 26:** This item requires freshwater wetlands information. Waiver requested and granted.

**Item 29:** This item requires Steep Slope Map details in accordance with Section 13-5.9.G. Defer to Engineer Hall if all information has been provided.

Based on the above, I recommend that the Board deem the application incomplete from a planning standpoint.

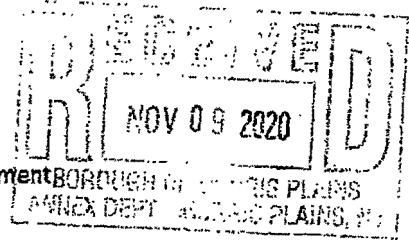
Should you have any questions on the above, I will be pleased to answer them at the public hearing on the completeness of the proposed application.

J19188



November 9, 2020

Borough of Morris Plains Zoning Board of Adjustment  
531 Speedwell Avenue  
Morris Plains, NJ 07950



RE: Application for Bulk Variances Related to New Single-Family Residence  
 Zoning Board Application #BA-4-19  
 Applicant: Denise Yuliano, Trustee Article 7 Trust u/w of Vincent Yuliano  
 Block 72, Lots 11 and 12  
 49 Dogwood Lane Rear (Lot 11) and 55 Dogwood Lane (Lot 12)  
 R-2 Residence District  
 Completeness and Review Letter

Dear Members of the Zoning Board:

**Introduction**

The Applicant (Yuliano) proposes to construct a single-family home on a lot shown as Block 72 Lot 11 on the Official Tax Maps of the Borough of Morris Plains. The lot is listed with a street address in the tax records of 49 Dogwood Lane Rear. The Applicant seeks variances to permit a building on a lot that does not abut a street and to permit disturbance in steep slope areas with 20 percent or greater slope.

**Documents Reviewed**

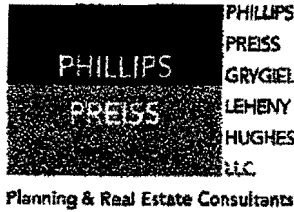
The following documents were reviewed:

- Letters to the Board of Adjustment from Richard L. Marcickiewicz, LLC dated September 16, 2020 and October 12, 2020
- Amended Application for Development, dated December 20th, 2019 and signed by Denise Yuliano with Rider to Application and Checklist
- Checklist F- Variances and Appeals
- Certification of Laura Cummings, Executive Director of Southeast Morris County Municipal Utilities Authority dated December 18, 2019
- Easements and Agreements
- Board of Adjustment Resolution No. 14-05
- Proposed legal notice of public hearing
- Certified list of Property Owners
- Explanation of Zoning Denial
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- Photographs of adjacent homes on Dogwood Road
- Floorplans and elevations for Pride Residence prepared by Heyrich Architects and dated April 15, 2019
- Plot plan signed by Steven I. Smith and John Gribbin, Jaman Engineering Associates consisting of 8 sheets:

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*Fax/ Mail Applicant*

*Dist BA*



- o Sheets 1-5 dated February 4, 2019 with revisions through August 28, 2020.
- o Sheets 6-7 dated February 4, 2019 with revisions through October 21, 2019.
- o Sheet 8 dated September 14, 2020
- Application for Soil Disturbance and Importation of Soils

**Description of the Site and Surrounding Uses**

The subject property is located in the western section of the Borough on the north side of Dogwood Road. The Borough's border with Parsippany-Troy Hills runs through the northwestern portion of the subject property (Block 72, Lot 12 in Morris Plains and Block 12, Lot 1.01 in Parsippany-Troy Hills). The subject property formerly had frontage on Kosakowski Drive also known as Buena Vista Way. However, Morris Plains vacated this paper street by Ordinance 18-2003 on September 18, 2003. Block 72, Lot 10, also known as 49 Dogwood Road, lies between the subject property and Dogwood Road. Lot 10 is improved with a single-family home. Block 72, Lot 11 also known as 55 Dogwood Road runs alongside Lots 10 and 12. Lot 11 is owned by the Southeast Morris County MUA (SMCMUA). Lot 11 has frontage on Dogwood Road. There is a deed of easement for access and utility services entered into on July 17, 2003 between the SMCMUA (owner of Lot 11) and the Yulianos (owner of Lot 12). The easement is under and across Lot 11 for the purpose of providing vehicular and pedestrian access between Lot 12 and Dogwood Road and for underground public utility services (i.e., water, sewer, telecommunications, power, cable television, etc.). The easement is 15 feet wide and 250 feet in length.

**Summary of Proposed Project**

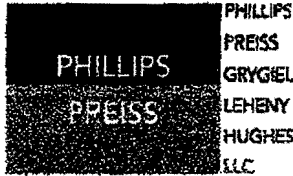
The applicant is proposing to construct a single-family home on Lot 12 which is currently vacant land. The home will be two stories and have an attached three car garage and five bedrooms.

In 2014, the Board granted the applicant (Application No. BA-6-11) permission to construct a single-family home on the subject property including a variance to permit construction of a single-family home which does not front a public street; a variance to permit disturbance in steep slope areas with 20 percent or greater slope; and a design waiver to allow regrading of one foot or more within five feet of an adjoining property. The approval was later rescinded in 2014 due to nondisclosure of an easement between the subject lot (Block 72, Lot 12) and the lot which is located between the subject lot and the Dogwood Road (Block 72, Lot 10).

**Zoning Compliance**

Variances will be required to build a home which does not front on a street and to disturb the steep slopes on site.

The lot does not front on a street. Per Section 40:55D-35 of the MLUL, no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. However, pursuant to Section



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40:55D-36 of the MLUL, where the enforcement of Section 40:55D-35 would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the board of adjustment may direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan.

Additionally, the lot is characterized by steep slopes. The applicant also seeks a variance from Section 13-5.9F(2) to disturb steep slopes with 20 percent or greater slope.

**Comments on Application Completeness**

We have reviewed the application for completeness and have the following comments:

**CHECKLIST F**

**Item 24(g)(1)-(4):** This item requires lot dimension information for lots within 500 feet of the extreme limits of the property. The applicant is proposing to construct a home that is fully conforming to the bulk standards of the R-2 zone. Waivers requested and granted.

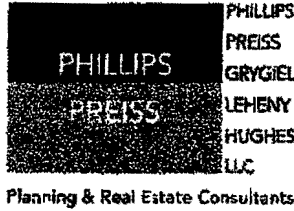
**Item 26:** This item requires freshwater wetlands information. Waiver requested and granted.

Based on the above, I recommend that the Board deem the application complete from a planning standpoint.

**Comments on Application**

Below are comments on the review of the submitted application for the proposed project. Please note that this is based on an initial review of the application and I reserve the right to make future comments or request additional information as the hearing process on the application progresses.

- With regard to the deviation from Section 40:55D-36 of the MLUL: the applicant must show that the application of this section would "entail practical difficulty or unnecessary hardship, or where the circumstance of the case do not require the building or structure to be related to a street." However, in permitting this deviation the Board should ensure there is adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of "health and safety and that will protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan."
- With regard to the "c" bulk variance required in connection with the proposed disturbance of steep slopes:



- o Either the Board must find, under the Municipal Land Use Law at N.J.S.A. 40:55D-70c(1) that "by reasons of exceptional narrowness, shallowness or shape of a specific piece of property...the strict application of any regulation...would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of a property:
- o Or, alternatively, the Board must find, under the Municipal Land Use Law at N.J.S.A. 40:55D-70c(2), that one or more purposes of zoning would be advanced by the deviation and the benefits of granting the variance(s) for this specific piece of property would substantially outweigh any detriment.
- o In addition, the Board must be satisfied that the granting of the variance would not cause substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan and zoning ordinance.
- Several of the applicant's application materials including two letters from attorney, Richard L. Marcickiewicz, LLC refer to the subject parcel as 42 Dogwood Road. The applicant should confirm that this is the proposed address for Lot 12. The plot plan states on Sheet 1 that the property address is 49 Dogwood Road. The materials should be consistent with one another.

Should you have any questions on the above, I will be pleased to answer them at the public hearing on the completeness of the proposed application.

Respectfully submitted,

Elizabeth C. Leheny, AICP, PP