

June 7, 2021

VIA UPS OVERNIGHT DELIVERY
Denise Schmied, Board Secretary
Planning Board/Zoning Board of Adjustment
Township of Southampton
5 Retreat Road
Southampton, New Jersey 08088

RE: Application of Robert Fecso
149 Eayrestown Road
Block 2201, Lot 6.02
Southampton, New Jersey
Our File No. 12665-001

Dear Ms. Schmied:

Please be advised this firm represents Robert Fecso (the "Applicant") in connection with this application for use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1). The Applicant, the contract purchaser of the property, seeks use variance relief in order to permit the construction, establishment and maintenance of a single-family residence with detached garage and pool/patio area in the Industrial (I) Zoning District.

Specifically, the Applicant seeks to construct a new approximately 49' x 50' single-family home with related site improvements at the above site. As the proposed use is not permitted under the Township of Southampton Zoning Ordinance, use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) is required. A project description and variance justification report prepared by this firm is attached hereto. The Applicant will provide professional planning testimony in support of the requested relief at the scheduled public hearing.

In support of this application, enclosed herein please find the following:

1. One (1) original and fourteen (14) copies of the Township of Southampton Planning/Zoning Board Application;
2. Fifteen (15) copies of the Southampton Use Variance Checklist;

3. Fifteen (15) copies of Variance Plan prepared by Hammer Land Engineering dated March 19, 2021;
4. Fifteen (15) copies of Architectural Renderings of proposed single-family home (to be supplied under separate cover);
5. One (1) copy of the Proof of Paid Taxes (to be supplied under separate cover);
6. One (1) copy of the 200' certified list of property owners (to be supplied under separate cover); and
7. One (1) copy of the Applicant's W-9.

Lastly, enclosed herein please find two (2) checks in the amounts of \$200.00 and \$1,500.00 representing the required application fee and escrow deposit, respectively.

Please do not hesitate to contact me should you require any additional documents or information in order to deem this application complete. Once deemed complete please notify me as to the date that the Planning Board/Zoning Board of Adjustment will consider this application and our firm will, of course, provide the required public notice in advance of that date.

Thank you, as always, for your kind attention and usual courtesies.

Very truly yours,

NEHMAD DAVIS & GOLDSTEIN, P.C.

BY: *Stephen R. Nehmad*
STEPHEN R. NEHMAD

SRN/lmm
Enclosures

c: Rakesh Darji, PE (w/encl. via UPS Ground)
Edward Fox, III, PP (w/encl. via UPS Ground)
Thomas Coleman, Esq. (w/encl. via UPS Ground)
Mr. Robert C. Fecso (w/encl. via e-mail: rcfecso@drhorton.com)
Joe Hanrahan, PE (w/encl. via e-mail: jhanrahan@hammerengineering.com)
Leah Furey Bruder, PP, AICP (w/encl. via e-mail: lfbplan@gmail.com)
Michael J. Lario, Jr., Esquire (w/o encl. via e-mail: mlario@ndglegal.com)
12665-001/3024



Southampton, New Jersey

The official web site of the municipal government

Block/Lot/Qual:	2201. 6.02	Tax Account Id:	1813
Property Location:	149 EAYRESTOWN ROAD	Property Class:	1 - Vacant Land
Owner Name/Address:	FORZA GROUP, INC 438 DRESHERTOWN ROAD FORT WASHINGTON, PA 19034	Land Value:	194,500
		Improvement Value:	0
		Exempt Value:	0
		Total Assessed Value:	194,500
		Additional Lots:	None
Special Taxing Districts:		Deductions:	

Taxes

		Make a Payment	View Tax Rates	Project Interest			
Year	Due Date	Type	Billed	Balance	Interest	Total Due	Status
2021	02/01/2021	Tax	1,814.18	0.00	0.00	0.00	PAID
2021	05/01/2021	Tax	1,814.17	0.00	0.00	0.00	PAID
2021	08/01/2021	Tax	1,053.73	1,051.78	0.00	1,051.78	OPEN
	Total 2021		4,682.08	1,051.78	0.00	1,051.78	
2020	02/01/2020	Tax	1,775.20	0.00	0.00	0.00	PAID
2020	05/01/2020	Tax	1,775.19	0.00	0.00	0.00	PAID
2020	08/01/2020	Tax	1,848.21	0.00	0.00	0.00	PAID
2020	11/01/2020	Tax	1,858.10	0.00	0.00	0.00	PAID
	Total 2020		7,256.70	0.00	0.00	0.00	
2019	02/01/2019	Tax	1,733.74	0.00	0.00	0.00	PAID
2019	05/01/2019	Tax	1,733.74	0.00	0.00	0.00	PAID
2019	08/01/2019	Tax	1,857.49	0.00	0.00	0.00	PAID
2019	11/01/2019	Tax	1,775.81	0.00	0.00	0.00	PAID
	Total 2019		7,100.78	0.00	0.00	0.00	

Last Payment: 05/18/21

[Return to Home](#)

TOWNSHIP OF SOUTHAMPTON
5 Retreat Road
Southampton, New Jersey 08088
609-859-1394
FAX 609-388-5532
Planning-zoning@southamptonnj.org

The application, with supporting documentation, must be filed with the Office of the Planning and Zoning Board Administrator. Determination of completeness will be made within forty-five (45) days. Any additional information provided will be subject to a forty-five (45) days determination of completeness. After a meeting is scheduled, any documents submitted must be delivered to the Board and professionals no later than fifteen (15) days prior to the meeting scheduled.

PLANNING BOARD & ZONING BOARD APPLICATION FORM

Date Filed: _____ Application No. _____
Planning Board: _____
Zoning Board of Adjustment: _____
Application Fees: _____
Scheduled for: Review for Completeness: _____ Hearing: _____

1. SUBJECT PROPERTY:

Property Location Address: 149 Eayrestown Road

Tax Map: Page 22 Block 2201 Lot(s) 6.02

Page _____ Block _____ Lot(s) _____

Dimensions: Frontage 200' Depth 1,805.15' Total Area 15.00 acres

Zoning District I - Industrial

2. APPLICANT/OWNER/DEVELOPER:

Name: Robert Fecso

Address: 178 Morning Glory Lane, Manchester, NJ 08759

Telephone No: _____ Fax No.: _____ Email: _____

Applicant is a: Corporation _____ Partnership _____ Individual X

Corp., Partnerships & LLC's, please provide a W-9 form.

3. DISCLOSURE STATEMENT:

Pursuant to N.J.S. 40:55D-48.1, the names and addresses of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S. 40:55D-48.2 that disclosure requirements applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed.

(Attach pages as necessary to fully comply.)

Name _____ Address _____ Interest _____

Name _____ Address _____ Interest _____

Name _____ Address _____ Interest _____

Name _____ Address _____ Interest _____

4. If Owner is other than the applicant, provide the following information on the Owner(s):

Owner's Name: Forza Group, Inc.

Address: 438 Dreshertown Road, Fort Washington, PA 19034

Telephone No: _____ Fax No.: _____

5. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING: SUBDIVISION:

- _____ Minor Subdivision Approval
- _____ Subdivision Approval (Preliminary)
- _____ Subdivision Approval (Final)

Number of lots to be created _____ Number of proposed dwelling units _____
(including remainder lot) (if applicable)

SITE PLAN:

- _____ Minor Site Plan Approval
- _____ Preliminary Site Plan Approval {Phases (if applicable) ___ }
- _____ Final Site Plan Approval {Phases (if applicable) _____ } }
- _____ Amendment or Revision to an Approved Site Plan
- _____ Area to be disturbed (square feet) _____
- _____ Total number of proposed dwelling units _____
- _____ Request for Waiver from Site Plan Review and Approval

Reason for request: _____

- _____ Informal Review (Planning Board only)
- _____ Appeal decision of an Administrative Officer (N.J.S. 40:55D-70a)
- _____ Map or Ordinance Interpretation of Special Question (N.J.S. 40:55D-70b)
- _____ Variance Relief (hardship) (N.J.S.40:55D-70c(1))
- _____ Variance Relief (substantial benefit) (N.J.S.40:55D-70c(2))
- _____ Variance Relief (use) (N.J.S. 40:55D-70d)
- _____ Conditional Use Approval (N.J.S.40:55D-67)
- _____ Direct issuance of a permit for a structure in bed of a mapped street, public drainage way, or flood control basin (N.J.S. 40:55D-34)
- _____ Direct issuance of a permit for a lot lacking street frontage (N.J.S.40:55D-35)

6. **Attach in paragraph form, an explanation of the exact nature of the application and the changes to be made, including proposed use of the premises, and why any variances or waivers should be granted: (Attach separate sheet)**

7.

PROPERTY INFORMATION:

Restrictions, covenants, easements, association by-laws, existing and proposed on the property:

Yes(attach copies) _____ No Proposed _____

Note: All deed restrictions, covenants, easements, association by-laws, existing and proposed must be submitted for review and must be written in easily understandable English in order to be approved.

Present use of the premises: _____ Vacant land.

8. **APPLICANT'S ATTORNEY: Stephen R. Nehmad, Esq., Nehmad Davis & Goldstein, PC, Counselors at Law**
Address: **4030 Ocean Heights Avenue, Egg Harbor Township, New Jersey, 08234**
Telephone No: **609-927-1177** Fax **609-926-9721**
email: **snehmad@ndlegal.com**

9. APPLICANT'S ENGINEER: Joseph Hanrahan, PE, Hammer Land Engineering
 Address: 1707 Atlantic Avenue, Suite B2, Manasquan, New Jersey, 08736-1147
 Telephone No.: 732-899-0898 Fax 888-712-4519
 email: jhanrahan@hammerengineering.com
10. APPLICANT'S PLANNING CONSULTANT: Leah Furey Bruder, PP, AICP
 Address: PO Box 262, Medford, NJ 08055
 Telephone No.: 609-605-3838 Fax _____
 email: leah@lfblandplanning.com
11. APPLICANT'S TRAFFIC ENGINEER: _____
 Address: _____
 Telephone No.: _____ Fax _____
 email: _____
12. List any other Expert who will submit a report or who will testify for the Applicant: (Attach additional sheets as may be necessary)
 Name: _____
 Field of Expertise: _____
 Address: _____
 Telephone No.: _____ Fax _____
 email: _____
13. Section(s) of Ordinance from which a variance is requested: Section 12-3.7
14. Waivers Requested of Development Standards and/or Submission Requirements:
 (attach additional pages as needed)
15. **Attach a copy of the Notice to appear in the official newspaper of the municipality (The Central Record or The Burlington County Times) and to be mailed to the owners of all real property, as shown on the current tax duplicate, located within the State and within 200 feet in all directions of the property which is the subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable.**
The publication and the service on the affected owners must be accomplished at least ten (10) days prior to the date scheduled by the Administrative Officer of the hearing.
An affidavit of service on all property owners and a proof of publication must be filed at least three (3) days prior to meeting before the application will be complete and the hearing can proceed.
16. Is a public water line available? No
17. Is public sanitary sewer available? No
18. Does the application propose a well and septic system on site? Yes
19. Have any proposed new lots been reviewed with the Township Engineer to determine appropriate lot and block numbers? N/A
20. Are any off-tract improvements required or proposed? No
21. Is the subdivision to be filed by Deed or Plat? N/A

22. What form of security does the applicant propose to provide as performance and maintenance guarantees? N/A

23. Other approvals which may be required and date plans submitted:

	Yes	No	Dates Plans Submitted
Burlington County Board of Health	_____	<u>X</u>	_____
Burlington County Planning Board	_____	<u>X</u>	_____
Burlington County Soil Conservation District	_____	<u>X</u>	_____
NJ Dept. of Environmental Protection	_____	<u>X</u>	_____
Pinelands Commission	_____	<u>X</u>	_____
Stream Encroachment Permit	_____	<u>X</u>	_____
Wetlands Permit	_____	<u>X</u>	_____
Other	_____	<u>X</u>	_____
NJ Dept. of Transportation	_____	<u>X</u>	_____
Public Service Electric & Gas Company	_____	<u>X</u>	_____
County 9-1-1 Coordinator, Street Name Approval	_____	<u>X</u>	_____

24. Certification from the Tax Collector that all taxes due on the subject property have been paid.

25. List of Maps, Reports and other materials accompanying the application (attach additional pages as required for complete listing).

26. The applicant hereby requests that copies of the reports of the professional staff reviewing the application be provided to the following of the applicant's professionals: Specify which reports are requested for each of the applicant's professionals or whether all reports should be submitted to the professional listed.

Applicants
Professional

Reports Requested

Attorney

Stephen R. Nehmad, Esq., Nehmad Davis & Goldstein, PC, Counselors at Law

Engineer

Joseph Hanrahan, PE, Hammer Land Engineering

CERTIFICATION

27. I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation or that I am a general partner of the partnership applicant.

(If the applicant is a corporation, this must be signed by an authorized corporate officer. If the applicant is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this
2 day of June, 2021.

Donna M. Demenczuk
Notary Public
DONNA M. DEMENCZUK
NOTARY PUBLIC OF NEW JERSEY
Commission # 50027250
My Commission Expires 11/17/2025

Robert C. Ferraro
Signature of Applicant

28. I certify that I am the Owner of the property which is the subject of this application, that I have authorized the applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the applicant.

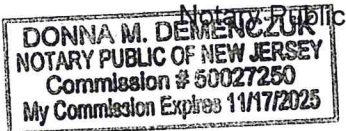
(If the owner is a corporation, this must be signed by an authorized corporate officer. If the owner is a partnership, this must be signed by a general partner.)

Sworn to and subscribed before me this

2 day of June, 2021

Donna M. Demuro

[Signature]
Signature of Owner



29. I understand that the sum of \$ 1,500⁰⁰ has been deposited in an escrow account. In accordance with the Ordinance of the Township of Southampton, I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and other expenses associated with the review of submitted materials and the publication of the decision by the Board. Sums not utilized in the review process shall be returned under the procedures in the ordinance. If additional sums are deemed necessary, I understand that I will be notified of the required additional amount and shall add that sum to the escrow account within fifteen (15) days. I understand that no further review of my application will be made until such time as my escrow account is current.

6/2/21

Date

[Signature]

Signature of Applicant

30. I agree to be responsible for all bills against this development's escrow account. In the event that this project is sold or my interest is transferred to another party, my obligation can only be relieved if all outstanding escrow bills are paid and the new principal obligates himself to the responsibility of all future bills in an agreement with the Township.

6/2/21

Date

[Signature]

Signature Developer/Applicant

ESCROW AGREEMENT

THIS AGREEMENT made this 4 day of June, 2021
between Robert Fecso

(name of applicant)

hereinafter referred to as "Applicant", and the PLANNING BOARD OR ZONING BOARD OF ADJUSTMENT of the TOWNSHIP OF SOUTHAMPTON, hereinafter referred to as the "Board".

WHEREAS, Applicant is currently seeking to make an application to the PLANNING BOARD or ZONING BOARD OF ADJUSTMENT of the TOWNSHIP OF SOUTHAMPTON, and;

WHEREAS, the Board desires to establish an escrow whereby work required to be performed by professionals employed by the Board will be paid by the Applicant as required under the provisions of the Ordinances of the TOWNSHIP OF SOUTHAMPTON, and;

WHEREAS, both parties feel it is appropriate to reduce this understanding to written form.

WITNESSETH:

IT IS mutually agreed between the parties that:

1. PURPOSES.

The Board authorizes its professional staff to review, inspect, report and study all plans, documents, statements, improvements and provisions made by the Applicant in conforming to the requirements of the Ordinances of the Township. The Board directs its professional staff to make all oral and/or written reports to the Board or its conclusions and findings derived from the review, study, investigation and like or similar duties performed as elsewhere authorized. The Applicant agrees to pay all reasonable professional fees incurred by the Board for the performance of the duties outlined above.

2. ESCROW ESTABLISHED.

Applicant and the Board in accordance with the provisions of this agreement hereby create an escrow to be established by the Board in a depository selected by the Township Committee.

3. ESCROW FUND.

Applicant by execution of this agreement shall pay to the Township Treasurer, to be deposited in the depository referred to in Section 2, such sums as are required by Schedule 1, which is attached hereto and made a part hereof by reference. Execution of this agreement by the Board acknowledges receipt of the sums referred to under this paragraph.

4. INCREASE IN ESCROW FUND.

If during the existence of this escrow agreement the funds held by the escrow holder shall be insufficient to cover any voucher or bill submitted by the professional staff and reviewed and approved by the Board, Applicant shall within fifteen (15) days from the date of receipt of written notice, deposit additional sums with the escrow holder to cover the amount of the deficit referred to above. The written notice referred to in this paragraph shall be sent to:

5. TIME OF PAYMENT.

The professionals referred to in this agreement, upon the conclusion of their services or periodically during the performance of their services, shall submit vouchers conforming to the requirements established by the Board and/or Township Committee for vouchers or the type and kind referred to under this paragraph. Said vouchers shall include the amounts of all fees and costs incurred as a result of the services set forth under Paragraph 1 of this agreement.

6. BOARD OF REVIEW.

The Township Committee shall review the vouchers submitted by the professionals to determine whether the services have been performed in the manner and to the degree required by this agreement. Upon

making a determination that said services have been performed properly, the Treasurer shall process said vouchers in the same manner and under the same terms as are normally employed for vouchers submitted for performance for the Board. At the conclusion of this processing the amounts specified in said vouchers shall be deducted by the escrow holder from the escrow established pursuant to this agreement.

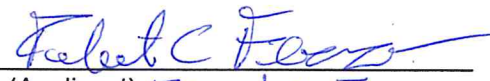
7. APPLICANT'S OBJECTION.

The Applicant shall have the right to make periodic inquiries of the records maintained by the escrow holder to determine the status of the escrow at any point in time. Where the Applicant objects to the payment of any voucher from the escrow fund, he shall have the right to appeal, upon three (3) days written notice to all professionals, to the **TOWNSHIP COMMITTEE** (Board) to determine whether the payments or payment are objected to be proper. The standards of review to be utilized by the **TOWNSHIP COMMITTEE** (Board) in determining whether said payments are proper and whether the fees incurred are reasonable and whether the work has been performed properly.

8. INTEREST ALLOCATIONS.

Any and all interest which would result from or arise out of the deposits being made and held in escrow by the Applicant shall revert to the use of the escrow holder as compensation for the services rendered in connection with this escrow agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the date first written above.


(Applicant) Robert C. Fecso

Administrative Officer of
Planning and Zoning

LAND DEVELOPMENT

Appendix A-5
D Variance (Use Variance)

CHECKLIST D VARIANCE

4-12-2004
Rev. 12-8-2004

SUBMISSION CHECKLIST
TOWNSHIP OF SOUTHAMPTON, NEW JERSEY
APPLICATION FOR "D" USE VARIANCE
ZONING BOARD OF ADJUSTMENT

(ORIGINAL AND 15 COPIES OF ALL INFORMATION SUBMITTED, MUST BE PROVIDED BY APPLICANT.)

BLOCK 2201 LOT(S) 6.02

APPLICANT/DEVELOPER'S NAME Robert Fecso

PROPERTY LOCATION ADDRESS: 149 Eayrestown Road

DATE OF SUBMISSION: _____

- Required Application.
- Required Application Fee and Escrow Deposit. (See attached Fee and Escrow Ordinance.)
- Certification by the Tax Collector that all taxes on said property are paid to date.
- Current Survey and/or Site Plan in accordance with Site Plan Ordinance.
- Escrow Agreement.
- Written request for any waiver(s).

This checklist is not a substitute for any specific submission requirement of our Ordinances. See Ordinances for details. For any of the above requirements not submitted, a statement requesting a waiver and reason(s) must be submitted.

All applications received by the Zoning Board will be reviewed for completeness. No application will proceed to the Board until deemed complete by the review staff.

Pursuant to N.J.S.A. 40:55D-70(d) "The Zoning Board of Adjustment shall have the power to: In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to Article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to § 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in § 3.1 of P.L. 1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in § 3.1 of P.L. 1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which

LAND DEVELOPMENT

exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or 2/3 of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.”

No variance or other relief may be granted under the terms of this section, including variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance.

USE VARIANCE:

The granting of a Use or “d” variance under N.J.S.A. 40:55D-70(d) requires the applicant to provide certain proofs, specifically positive and negative criteria.

POSITIVE CRITERIA

In demonstrating the positive criteria, the applicant should rely upon providing special reasons for the requested relief. The applicant is required to prove that the proposed project carries out a purpose of zoning or an undue hardship will result if the proposed project is denied.

1. The purposes of zoning in N.J.S.A. 40:55D-2 are:
 - a. To encourage municipal action to guide the appropriate use of development of all lands in the State, in a manner which will promote the public health, safety, morals and general welfare;
 - b. To secure safety from fire, flood, panic and other natural and man-made disasters;
 - c. To provide adequate light, air and open space;
 - d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;
 - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment.
 - f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
 - g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
 - h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;
 - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;

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- j. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the state and to prevent urban sprawl and degradation of the environment through improper use of land;
 - k. To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;
 - l. To encourage senior community housing construction;
 - m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
 - n. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.
2. In addition, the following purposes of zoning from the Southampton Township's Zoning Ordinances can be used as sufficient proofs in providing special reasons:
 - a. To further the goals and policies of the Master Plan of the Township of Southampton.
 - b. To further the goals and objectives of the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.
 - c. To promote the development and use of greenways, which are contiguous tracts and corridors of recreation, forest or other open space land that protects sensitive natural and cultural resources including endangered species and particularly ground and surface.
 3. The Supreme Court has also stated that "the preservation of the character of a neighborhood and conservation of neighborhood values" can also be considered valid purpose of zoning. Promotion of a State policy has also been held as promoting the general welfare and can serve as a special reason.
 4. General Welfare as a Special Reason. If the applicant relies upon the promotion of general welfare as a special reason, the use must be considered inherently beneficial or is peculiarly suitable to the particular location for which the variance is sought. Typical inherently beneficial uses such as schools, hospitals and public housing have characteristics that are essential within a community and are generally institutional and noncommercial in nature. The applicant is required to prove that the use is peculiarly suitable to the proposed location.

NEGATIVE CRITERIA

In addition to proving special reasons, the applicant must offer "an enhanced quality of proof." The applicant must address to the satisfaction of the Zoning Board of Adjustment the following issues:

1. The applicant must prove that the proposed is not inconsistent with the intent and purpose of the Southampton Township's Master Plan and Zoning Ordinances.

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2. The applicant must also prove that the proposed use will not present a substantial detriment to the public good. The applicant should provide potential impacts on surrounding properties in determining whether the character of the neighborhood will be substantially impacted. The Board should consider potential impacts to traffic, safety, aesthetic views, the environment, noise and property values.

BALANCING TEST

The responsibility of the Zoning Board of Adjustment is to determine whether the benefits outweigh the detriments. There is a four-step process to help the Board make this determination as provided below:

1. Identify the public interest at stake.
2. Identify the detrimental effects that would result from the granting of the variance.
3. Identify potential mitigating reasonable conditions that would reduce the anticipated detriments.
4. Weigh the public interest issues against the public detriments to determine if the granting of the variance would cause a substantial detriment to the public good.

VARIANCE JUSTIFICATION REPORT

Township of Southampton Planning/Zoning Board
Application of Robert Fecso
149 Eayrestown Road
Block 2201, Lot 6.02
Township of Southampton, New Jersey

Nature of Application: Application for Use Variance Relief pursuant to N.J.S.A. 40:55D-70d(1) to construct, establish and maintain a single-family residence at the above property.

In this application, Robert Fecso (“Applicant”) proposes to construct, establish and maintain an approximately 49’ x 50’ single-family residence with detached garage and pool/patio area at the property located at 149 Eayrestown Road, Block 2201, Lot 6.02 (the “Property”). The Property is currently undeveloped, wooded land.

The Property is situated within the Township of Southampton Industrial (I) District Zone which does not expressly permit single-family residential uses. This necessitates the within Use Variance Application.

USE VARIANCE

The Applicant seeks “d” use variance relief pursuant to N.J.S.A. 40:55D-70(d)(1) to permit the construction, establishment, and maintenance of a single-family residence with detached garage and pool/patio area within the Industrial District Zone. The Applicant is, of course, required to satisfy the positive and negative criteria to justify such a variant. The positive criteria are satisfied by advancing one or more purposes of the New Jersey Municipal Land Use Law (“MLUL”) (N.J.S.A. 40:55D-2). Pursuant to the Supreme Court’s decision in *Medici v. BPR*, 107 N.J. 1 (1987), the Applicant is also required to establish an enhanced burden of proof showing that the property in question is particularly suited for the variant treatment being requested and that the grant of the use variance is justified even though the zoning ordinance omits the proposed use in the zoning district.

In accordance with N.J.S.A. 40:44D-2, the proposed development will:

- Provide sufficient space, in an appropriate location, for a residential use, which will meet the needs of the citizens of the Township of Southampton (N.J.S.A. 40:55D-2(g));
- Provide adequate light, air and open space (N.J.S.A. 40:55D-2(c));
- Promote a desirable visual environment through creative development techniques and good civic design and arrangement (N.J.S.A. 40:55D-2(i)); and

First, the proposed residential development is located in an appropriate location as there are numerous other residential uses located around the subject property. Specifically, residential uses currently exist immediately adjacent to and across the street from the subject Property. Given the proximity of other existing residences to the property, it is respectfully submitted that

this Board's decision to allow the construction, establishment and maintenance of a single-family residence would clearly satisfy subsection (g) of N.J.S.A. 40:55D-2 as the proposed residential development is within an appropriate location for the proposed residential use.

Second, the Applicant is proposing a modestly sized home upon the approximately 15-acre lot, thus preserving light, air and open space. As can be seen from the Variance Plan submitted with this application, the approximately 49' x 50' single-family residence and all related site improvements will result in a lot coverage of approximately five percent (5%) where fifty percent (50%) is permitted. Accordingly, the proposed development will provide more than adequate light, air and open space.

Next, the Applicant is proposing to construct a new, aesthetically pleasing single-family residence with many architectural features and flourishes. The visually pleasing structure will also be surrounded by serene landscaping. The proposed aesthetically pleasing development and landscaping will promote a desirable visual environment pursuant to N.J.S.A. 40:55D-2(i).

The Applicant also satisfies the required negative criteria, i.e., that the variance will not substantially impair the intent and purpose of the Township of Southampton Zone Plan and Zoning Ordinance. The Industrial District Zone allows for industrial wholesale, storage, warehouse, amusement, bottling, manufacturing, laundry, research, laboratory, etc. It is respectfully submitted that a single-family residential use is a far less intensive use than the permitted uses referenced above, all of which will generate more constant flows of traffic during the hours in which they are open for business.

CONCLUSION

The requested use variance relief will allow the Applicant to construct a single-family residence and detached garage and pool/patio upon the property. The proposed use advances the purposes of zoning and is consistent with the intent and purpose of the Industrial District Zone.

The Applicant reserves the right to supplement this addendum with testimony at the time of the scheduled public hearing.