

**LAND USE PLANNING BOARD OF THE
TOWNSHIP OF EASTAMPTON**

RESOLUTION # 8- 2023

ON THE APPLICATION OF JOHN BRODIE, JENNY GETTING AND FRANK GETTING GRANTING A SPECIAL REASONS VARIANCE PURSUANT TO N.J.S.A. 40:55D-70d(1) TO PERMIT A PORTION OF THE SECOND FLOOR OF THE SINGLE FAMILY HOME LOCATED AT BLOCK 1401, LOT 6, ALSO KNOWN AS 2 MORRIS LANE, TO BE CONVERTED TO A SEPARATE LIVING AREA FOR THE PURPOSE OF CREATING A MULTI-GENERATIONAL HOUSING UNIT AND BULK VARIANCES FOR A SHED

WHEREAS, Jenny and Frank Getting are the owners of a single family residence located on Block 1401, Lot 6, also known as 2 Morris Lane ("Property"), located in the Rural Residential Low Density District, and with John Brodie, the husband of Jenny Getting ("Applicants"), have applied to the Land Use Planning Board ("Board") for a special reasons variance pursuant to N.J.S.A. 40:55D-70d(1) to convert a portion of the second floor into an independent unit of multigenerational housing, and for bulk variances for the location of a shed; and

WHEREAS, the Applicants set forth the following description in their application:

The Applicant seeks a Use Variance pursuant to N.J.S.A. 40:55D-70d(1) for their recently purchased ... single family dwelling ... which has 4 bedrooms, 3.5 baths and 4,200 sq. ft. of living space. The Applicant proposes to renovate the home to add a multi-generation "in-law suite" on the second floor of the residential dwelling ... to function as an independent unit of multi-generational housing for the Applicant's elderly father (Frank Getting). The proposed "in-

law suite" will include: an existing bedroom, closet, bathroom and living area; the renovation will add a kitchenette (with a sink, refrigerator, microwave and toaster oven) and washer/dryer storage area....

Mr. Getting is 70 years old and is divorced/single. He currently resides with the Applicant at their current residence in Bordentown, N.J. His medical conditions makes it difficult and unsafe to live alone. The Applicant desire for Frank Getting to reside with his family and not live in an assisted living arrangement where the likelihood for contracting COVID is higher. His current medical condition makes him a high risk for contracting COVID which could have severe consequences. The proposed renovation will give Mr. Getting independent living and make his living conditions safer. The house footprint will remain unchanged. The only outside proposed renovation will be to relocate an existing attractive storage shed (20 ft. x 12 ft.) to the side of the house....

This application for a use variance can be granted since the proposed renovation will promote the purposes of the Municipal Land Use Law as an appropriate use of the Property to facilitate the needs of families to provide multi-generational housing to care for an aging parent and thereby benefitting the public health, safety, morals and general welfare. In addition, the granting of the variance will promote the appropriate population densities thereby contributing to the well-being of the neighborhood, community and the preservation of the environment.

The proposed use variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purposes of the zoning plan and zoning ordinance since the use of the Property will remain residential, the house's appearance will be unchanged (other than the addition of a storage shed), there will be no impact on traffic, no increase demand on public services and the Property will remain consistent with the characteristics of the surrounding neighborhood; and

WHEREAS, the Applicants in their application offered that were the variance granted they would accept the following conditions, which are to run with the land so as to be binding on future owners: the Property will remain a single family dwelling; Property shall not be rented or leased, or used as a bed and breakfast, and the renovated "multi-generational in-law suite will be used and occupied only by either a parent or parents of the owner of the Property or by a single 'relative' defined to include an owner's sibling, aunt, uncle, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister;" and

WHEREAS, the Applicants gave notice of the hearing before the Board and John Brodie and Jenny Getting appeared with their attorney, Alan P. Fox, Esquire, on January 18, 2023, and testified pursuant to oath, along with their planner Mark Shourds, PP, PE; and

WHEREAS, Deputy Mayor Santillo and Councilman Rodriguez were excused as they are not permitted by law to participate in "d" variance applications; and

WHEREAS, Board Planner, Mark A. Remsa, PP, LLA, AICP, ASLA, issued a review letter dated November 4, 2022, revised to November 10, 2022 ("Planner Review Letter"), which was reviewed with the Board and the Applicants at the hearing; and

WHEREAS, Mr. Fox advised that the Applicants had submitted to the Board professionals proposed deed restrictions which were substantially similar to those submitted with a prior application he had submitted on behalf of applicants who had sought to convert a basement into a unit of multigenerational housing; and

WHEREAS, John Brodie and Jenny Getting testified as follows:

1. The single-family residence has four bedrooms and three and one-half bathrooms.
2. The in-law suite will have added to it a stove, kitchenette, washer and dryer.
3. Frank Getting is seventy years of age and has serious health issues requiring their care and supervision.
4. A chair lift will be installed to assist Mr. Getting.
5. Multigenerational housing is an improved alternative to assisted living and they have no objections to signing and recording the deed restrictions.
6. There will be no changes to the exterior of the single-family home. Access to the home will remain unchanged. The Amish style shed is attractive and will be used for storage of bicycles, tools, and the like. All necessary permits will be obtained and the shed will not be visible to the neighbors; and

WHEREAS, Mark Shourds, PP, PE, was recognized as a planning expert, and stated that due to the shape of the Property, the unique layout of the single-family house and its relatively small size of less than one-half acre within the Rural Residential Low Density District, variances were required for the 240 square foot shed, with a rear yard setback of 15 feet and for an accessory building lot coverage of 1.2%. Specifically, from Eastampton Code Section 540-11H., which only permits sheds of 200 square feet or less; Section 540-16D(6)(c), which requires a 40 foot rear yard setback, and from Section 540-16(7)(b) requiring a maximum lot coverage for accessory buildings of 1%. Mr. Shourds testified that there is no substantial detriment as the shed is not visible to other residential properties, the Property is located in a rural area and the requested relief is de minimis; and

WHEREAS, with reference to the multigenerational use Mr. Shourds testified that it would advance several of the purposes of the Municipal Land Use Law as it is an appropriate use of the Property promoting the public health, safety, morals and general welfare by enabling families to remain together and provide care for elderly parents; by contributing to the well-being of persons and neighborhoods and the preservation of the environment, and importantly there was no detriment as all of the improvements to the Property are internal so that the use does will impact

the appearance of the neighborhood, and the restrictions will serve to preserve the single-family zoning; and

WHEREAS, the hearing was opened to the public and Zoning Officer Kathy Newcomb requested assurances that the deed restrictions would be in place and discussed the permits that the Applicants would be required to obtain, and there being no further public comment, the hearing was closed.

NOW THEREFORE BE IT RESOLVED by the Land Use Planning Board of the Township of Eastampton as follows:

1. The above preamble clauses are adopted as the findings of fact and conclusions of law.
2. The Board incorporates herein the Planner Review Letter and the Applicants application
3. The Board grants a variance pursuant to N.J.S.A. 40A:55D-70d(1) to permit the single family home located on Block 1401, Lot 6, also known as 2 Morris Lane, to have a second floor bedroom converted to a multigenerational housing unit consisting of a bedroom, closet, bathroom, kitchenette, living area and washer/dryer with a storage area. The multigenerational unit shall not have a separate access into the Property.

The Board finds that the use will promote the public health, safety, morals and general welfare by addressing the needs of families to provide multigenerational housing to care for aging parents, will provide appropriate

population densities in the community, and serve to preserve the environment.

The variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance as the use will remain residential and the house's exterior appearance will be unchanged. The conditions set forth hereinafter in paragraph 4 will further guarantee that there is no substantial detriment, or substantial impairment of the zone plan and zoning ordinance by eliminating the possibility that the house can be converted into a multiple family unit occupied by unrelated persons.

4. The following conditions shall run with the land and be binding on the Applicants and their successors in title, and shall be set forth in a document approved by the Board Attorney and Board Planner, and thereafter to be recorded in the Burlington County Clerk's Office: the Property shall remain a single family dwelling with a fully renovated second floor bedroom as described hereinbefore, which may be occupied by a parent or parents of the owners of the Property or a single relative; no separate utility meters may be installed; and the second floor living area may not be rented, leased or operated as part of a bed and breakfast. A relative is defined as an owner's sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister.

5. A certificate of occupancy may not be issued until a copy of the recorded document setting forth the restrictive conditions set forth above is received by the Land Use Administrator.

6. The following variances pursuant to N.J.S.A. 40:55D-70c(1)(c) are granted due to the extraordinary and exceptional situation uniquely affecting the Property due to its relatively small size and the location and shape of the house on the Property which impose an exceptional and undue hardship on the Applicants. From Eastampton Code Sections: 540-11H. to permit the shed to be 240 square feet; 540-16D.(6)(c) to permit the shed to have a rear yard setback of 15 feet, and 540-16D.(7)(b) to permit the shed to have building coverage of 1.2%.

The variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance as the relief requested for the shed is de minimis and its location is not visible to other residences within the zone.

Members voting in favor of granting the variances on January 18, 2023: Chairperson Adams, Bayles, Vice-chairperson Chieco, Maluchnik, Hernandez and Township Manager/Clerk Kim-Marie White.

Members voting in favor of adopting this resolution of memorialization on February 15, 2023: Chairperson Adams, Bayles, Vice-chairperson Chieco, Maluchnik, Hernandez, and Township Manager/Clerk Kim-Marie White.

The foregoing is a true copy of a resolution adopted by the Land Use Planning Board of the Township of Eastampton at its meeting held on February 15, 2023, memorializing action taken at its meeting held on January 18, 2023.

LAND USE PLANNING BOARD OF
THE TOWNSHIP OF EASTAMPTON



Jeffrey G. Reeve
Land Use Administrator