

**Holland Township Land Use Board**  
**Minutes of the Regular Meeting**

**June 10, 2024 (regular)**

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

**Chairman Martin:** “I call to order the June 10, 2024 Regular Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 21, 2023 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

Chairman Martin asked all to recite the Pledge of Allegiance

**Identification of those at the podium for the recording**

Present: Joe Cinquemani, Bill Ethem, Ken Grisewood, Peter Kanakaris, Michael Keady, William Martin, Mike Miller, Nickolas Moustakas, Ryan Preston, Kelley O’Such, Scott Wilhelm, Board Attorney Dominick DiYanni for Attorney Eric Bernstein, Board Planner/HT Highlands Council Subcommittee Planner Darlene Green, Board Conflict/Special Projects Engineer Richard Roseberry/Paul Sterbenz/Adam Wisniewski, and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Dan Bush, Board Engineer Ian Hill, Board Conflict/Special Projects Engineer Bryce Good, Board Conflict/Special Projects Planner Kendra Lelie, Attorney John Gallina as Land Use Board Special Litigation Counsel in the matter of Mill Road Solar Project, LLC et als. V CEP Solar LLC et. als., Appellate Docket #A-3063-21: Law Division Docket #L-2029-19.

Let the record show there is a quorum.

**Minutes**

The reading of the Land Use Board minutes of May 13, 2024 was tabled.

**Old Business:**

There was no Old Business scheduled at this time on the agenda.

**New Business:**

The resignation of Mike Miller was distributed to the board members with the announcement that Mike Miller has been appointed to the Township Committee, filing in the vacant position of Lisa Pezzano. All congratulated Mike Miller who was in the audience.

A motion was made by Bill Martin and seconded by Scott Wilhelm to appoint Nick Moustakas as vice – chairman. There were no other nominations from the floor. At a roll call vote, all present were in favor of the motion. Motion carried. Nick Moustakas accepted the position.

**Completeness Review**

- Block 3 Lot 28.01 & 66– 195 Myler Rd & 191 Myler Rd - Darvill & Blanton – Minor Subdivision/Lot Line Adjustment with C Variance – Received into our office April 3, 2024 – The 45-day completeness deadline is May 18, 2024. Completeness May 13, 2024 – applicant granted extension May 10, 2024 to June 10, 2024. **BOARD ACTION NEEDED.** (motion to carry the completeness determination to the June meeting with the applicant’s written consent). If deemed complete then a public hearing would take place on the same meeting.

Attorney Gruenberg present and explained that the application is for a minor subdivision/lot line adjustment. Attorney Gruenberg addressed the memo prepared by Board Engineer Wisniewski.

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Secretary Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

May 9, 2024

Land Use Board  
Township of Holland  
61 Church Road  
Milford, NJ 08848

Engineering Review  
Minor Subdivision Plan (Lot Line Adjustment)  
191 & 195 Myler Road  
Block 3, Lots 28.01 & 66  
Holland Township, Hunterdon County, New Jersey  
Colliers Engineering & Design Project No. HLP-0041

Dear Board Members:

Pursuant to your request, I have reviewed plans, applications, and other documents submitted by Jonathan Darvill and Carson Blanton in support of an application for minor subdivision plan approval to subdivide and merge a portion of Lot 28.01 with Lot 66 in Block 3 in the Township to provide future driveway access between Lot 66 and Myler Road.

The following documents were submitted to the Board in support of the application:

1. Planning Board & Board of Adjustment Application Form, dated March 28, 2024.
2. Document entitled "Narrative Statement", unknown author, no date, consisting of 2 pages.
3. Document entitled "Checklist for Determining Completeness of Application – Minor Subdivision – Township of Holland, Hunterdon County, New Jersey" no date.
4. Document entitled "Checklist Waiver Requests -Determination of Non-Applicability for – Minor Subdivision – Lot Line Adjustment – Block 3, Lots 28.01 & 66 – Holland Township, Hunterdon County", dated March 11, 2024.
5. Copy of Right-of-Way Grant for Electric Lines, dated July 16, 1953.
6. Copy of Deed, dated April 2, 1956.
7. Copy of Deed, dated September 2, 1964.
8. Document entitled "Township of Holland - Replenishment of Escrow Accounts" prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.
9. Document entitled "Holland Township – 61 Church Road, Milford, NJ 08848 – Certification of Ownership", prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.
10. Document entitled "Township of Holland – Site Walk Authorization", prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.
11. Document entitled "Metes and Bounds Description" consisting of 4 pages, prepared by Pamela Mathews, PE, LS of Van Cleef Engineering Associates, dated January 15, 2024.
12. Certification of real estate taxes paid for Block 3, Lot 28.01, dated March 28, 2024.
13. Certification of real estate taxes paid for Block 3, Lot 66, dated March 28, 2024.
14. Certified list of property owners within 200 feet of Block 3, Lots 28.01 and 66 in Holland Township, prepared by Michelle Trivigno, CTA, dated April 9, 2024.
15. Certified list of property owners within 200 feet of Block 3, Lots 28.01 and 66 in Alexandria Township, prepared by Laura Whitaker, dated April 11, 2024.

### **Description of Application**

Both Lots 28.01 and 66 in Block 3 are developed lots within the Township's R-5 Residential District. Access to Lot 66 from Myler Road is currently provided by a driveway located on both Lots 66 and 43 of Block 3. The owner of Lot 43 disputes the entitlement of the applicant to continue using this driveway. In order to provide access to Lot 66, it is proposed that a portion of Lot 28.01 be subdivided and merged with Lot 66. The applicant intends to construct a driveway to provide access between the dwelling on Lot 66 and Myler Road.

Lot 28.01 in Block 3 has an area of 2.165 ± acres (an existing non-conforming condition) and 537.47 feet of frontage on Myler Road. The property is developed and contains a detached 1 story dwelling, a shed, and associated access driveway.

Lot 66 in Block 3 has an area of 12.480 ± acres and is developed with a detached 2 story masonry and frame dwelling, above ground pool, and corn crib.

The applicant is seeking minor subdivision plan approval subdivide and merge a portion of Lot 28.01 with Lot 66 in Block 3 in the Township to provide future driveway access between Lot 66 and Myler Road. The lot line adjustment would increase the area of Lot 66 in Block 3 by 14,505.48 ± square feet, as well as provide 103.53

feet of frontage along Myler Road. The proposed subdivision will reorient the front, rear, and side yard setbacks in accordance with the Ordinance.

I have the following comments on the application:

### **A. Completeness**

1. Based on a review of the submission package vs. Checklist Section A no submission deficiencies were identified.
2. The applicant has requested that the Board waive the submission requirements for the following checklist items:
  - a. Checklist Item A-12 – Freshwater Wetlands Letter of Interpretation.
  - b. Checklist Item A-37 – Signed and sealed certification by the licensee.

The Board must obtain testimony from the applicant and its professional representatives to support the grant of the submission waivers.

3. The applicant has indicated that the following checklist items are “not applicable”:
  - a. Checklist Item A-9 – A receipt indicating delivery of a completed application to the Hunterdon County Planning Board.
  - b. Checklist Item A-10 – A receipt indicating delivery of a completed application to the Hunterdon County Health Department.
  - c. Checklist Item A-11 – A receipt indicating the delivery of a completed application for Soil Erosion and Sediment Control Plan Certification to the Hunterdon County Soil Conservation District.
  - d. Checklist Item A-13 – Flood Hazard Area Permit issued by the NJDEP.
  - e. Checklist Item A-14 – Protective covenants or deed restrictions applying to the land.
  - f. Checklist Item A-15 – A certification from the tax assessor approving proposed block and lot numbers.
  - g. Checklist Item A-16 – Application for development in the Highlands Preservation Area.
  - h. Checklist Item A-18 – Soil testing results certified by a Professional Engineer.
  - i. Checklist Item A-44 – Detailed grading plan showing proposed buildings, driveways, etc.
  - j. Checklist item A-45 – Location and results of soil permeability testing
  - k. Checklist Item A-46 – Area of primary and secondary wastewater disposal field.
  - l. Checklist Item A-48 – Stormwater Management Plan in accordance with Article XXIV of the Township Land Use Code.

I agree with the “not applicable” designations listed above. However, it should be noted that the applicant has proposed this Minor Subdivision for the future construction of a driveway access from the dwelling on Block 3, Lot 66 to Myler Road. Many of these items will be required as part of the driveway permit review process.

### **Completeness Summary**

If the Board approves the submission waivers, the application could be deemed complete by the Board at the May 13, 2024, meeting.

### **B. Technical**

1. We defer to the May 7, 2024 Planning Report prepared by Darlene Green, PP, AICP as to planning and zoning issues, the relief that is needed from the provisions in the Township’s Land Use Ordinance, and the testimony that must be provided to support the request for relief.
2. I recommend that the Board condition any approvals on the following:
  - a. The payment of real estate taxes.
  - b. The payment of any outstanding fees and assessments.
  - c. The submission of future plans for the construction of a driveway.
  - d. The submission of plans for stormwater management facilities should the proposed driveway increase impervious coverage onsite by 2,000 square feet or more.
  - e. Submission of an application the Hunterdon County Soil Conservation District should the proposed driveway improvements disturb more than 5,000 square feet.
  - f. The procurement of approvals or waivers thereof from outside review agencies with jurisdiction (i.e. Hunterdon County Planning Board).
  - g. The applicant revising its subdivision plan to address comments by the Board and its professionals.

- h. The submission of deeds for the reconfigured lots in forms satisfactory to the Board Attorney and Board Engineer. No deeds shall be recorded by the applicant until such time as the deeds are approved by the Board's professionals and the signatures of the Chairman and Secretary are affixed to the deeds.
- i. Any conditions through the legal review of Board Attorney Eric Bernstein, Esq.

**C. Conclusion**

I will not be in attendance at the May 13, 2024, Board meeting to review this matter.

If any Board member has questions on this report, please do not hesitate to call me.

Sincerely,

Colliers Engineering & Design, Inc.



Adam T. Wisniewski P.E.

Board Engineer

cc: Maria Elena Kozak, Planning Board Secretary  
Eric Bernstein, Esq., Board Attorney  
Darlene Green, PP, AICP, Board Planner  
Steven P. Gruenberg, Applicant's Attorney  
Joseph Modzelewski, Applicant's Architect

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As a reminder, there was an application before this board for this property which was to vacate the Myler driveway and to create a driveway to Goff Lane. This was approved. This application would have the future driveway stay on Myler. There are waivers requested that would not affect completeness. The applicant has noticed and would like to be deemed complete in order to go into the public hearing. Some of the items are just not applicable as this is a simple lot line adjustment for the creation of a driveway. Member Wilhelm had some questions about the waivers being temporary or permanent with Attorney Gruenberg stating that most are temporary with the zoning office requiring stormwater, LOI or something else depending on the application submitted.

A motion was made by Scott Wilhelm and seconded by Nick Moustakas to grant the waivers and deem the application complete. At a roll call vote, all present voted in favor of the motion. Motion carried.

The public hearing followed:

**Resolution**

Block 2 Lot 1.02 – 10 Mill Road – Holland Solar Farm LLC – Amended Final Site Plan – Received in the office November 15, 2023. The 45-day deadline is December 30, 2023. Deemed incomplete December 11, 2023. Resubmitted paperwork January 22, 2024 via email and hard copy delivered to the office for completeness review February 12, 2024. Due to potential inclement weather February 12, 2024, the applicant granted an extension on February 12, 2024 to the next meeting of March 11, 2024. Deemed complete March 11, 2024. Public hearing March 11, 2024. Carried to May 13, 2024 (at the meeting and by email April 1, 2024). Approved with conditions May 13, 2024 and board attorney authorized to prepare a resolution. **BOARD ACTION NEEDED to memorialize.**

HOLLAND TOWNSHIP LAND USE BOARD  
Township of Holland, County of Hunterdon, New Jersey

Resolution of Approval of Amended  
Preliminary and Final Site Plan

Applicant: Holland Solar Farm, LLC  
10 Mill Road, Block 2, Lot 1.02  
Township of Holland

WHEREAS, the Applicant, Holland Solar Farm, LLC (hereinafter referred to as the "Applicant"), has applied to the Land Use Board of the Township of Holland (hereinafter referred to as the "Board") for Preliminary and Final Site Plan Approval for the premises located at 10 Mill Road and designated on the Township's Official Tax Maps as Block 2, Lot 1.02, in the Township of Holland, County of Hunterdon, and State of New Jersey (hereinafter referred to as the "Property"); and,  
WHEREAS, a public hearing was held on the Application on March 11, 2024 and May 13, 2024; and,  
WHEREAS, the proof of notice of the hearing was verified; and,

WHEREAS, Mark Bellin, Esq. and Michael Vitiello, Esq. of Giordano, Halleran & Ciesla, P.C. represented the Applicant and presented the sworn expert testimony of Peg A. Prizer, LLA, ASLA, the Applicant's landscape architect and Ian L. Hill, P.E. the Applicant's engineer. Various exhibits were also reviewed and marked during the course of the hearings conducted; and,

WHEREAS, Board Attorney Eric M. Bernstein, Esq. and Dominic P. DiYanni, Esq. of Eric M. Bernstein & Associates, LLC, were also present at the hearings; and,

WHEREAS, the hearings were opened to the public; and,

WHEREAS, the Board, after a hearing was held pursuant to law, and having reviewed the plans, application and testimony presented on behalf of the Applicant, and reviewed the various reports and opinions from the Board and the Township officials and professionals and based on the evidence presented at the hearing, makes the following Findings of Fact:

1. The Board has jurisdiction over the matter and proper proof of service has been made.
2. The subject site consists of one (1) lot, which is sixty-five and one half (65.5) acres and has approximately one thousand eight hundred (1,800) feet of road frontage along Cyphers Road and Willow Lane. Mill Road, a private road/easement, is located along the northern portion of the site providing access to eight (8) single family attached housing units located on separate parcels and not part of this Application.
3. The site was previously used as a paper plant (Fibermark) and has been redeveloped as a 10 MW photovoltaic grid supply solar field. The southern corner of the site contains an existing 8 MW grid-supply solar farm that is operational and known as the Milford Solar Farm. The remaining land of the subject site contains herbaceous and forested wetlands and open waters of the Musconetcong River.
4. The parcel is located in the Limited Industrial Park District (IND). The surrounding properties include single-family dwellings to the west and agricultural uses to the south and east. The Musconetcong River is located along the northern property boundary. The R-5 Residential zoning district abuts the southeastern property boundary and an R-1 Residential zoning district located in Pohatcong Township is located to the north of the parcel.
5. The IND District permits a variety of non-residential uses including manufacturing, office, laboratory, warehouse and agriculture, as well as single-family residential. Solar energy facilities are permitted as conditional uses in IND District. However, pursuant to N.J.S.A. 40:55D-66.11, a renewable energy facility on a parcel of land comprising twenty (20) or more acres shall be a permitted use in every industrial district. As such, while there are conditions associated with the use, it shall be treated as a permitted use.
6. The Applicant received preliminary and final site plan approval from the Board on November 9, 2020, which permitted the Applicant to construct the 10 MW photovoltaic grid supply solar field in two (2) separate solar arrays.
7. Following the above-mentioned approval from the Board, the ground-mounted photovoltaic electric generation solar arrays were constructed within the subject property. However, during construction, additional land adjacent to Arrays D and E, were disturbed by Applicant's contractors beyond the approved limits of disturbance on the formerly approved Site Plans.
8. The Applicant now proposes to restore and replant some of the areas of unauthorized land disturbance as shown in the Amended Final Major Site Plan documents provided with the application.
9. The Applicant received approval from the Hunterdon County Soil Conservation District for their Soil Erosion and Sediment Control Plans, dated April 14, 2023, which are included in the Amended Final Major Site Plan documents.
10. The Applicant is requesting approval for amended preliminary and final site approval to permit additional clearing of approximately three point seventy seven (3.77) acres that took place during construction of the solar field for the premises located at 10 Mill Road in the Township of Holland and further identified as Block 2, Lot 1.01 on the official Tax Map of the Township (hereinafter referred to as "Application").
11. The Board received and considered the following evidence from the Applicant, as well as other items as follows:
  - a. Transmittal letter from Van Cleef Engineering Associates, dated November 15, 2023;
  - b. Planning Board & Board of Adjustment Application Form, signed November 6, 2023;
  - c. Ownership Certification signed by the property owner, dated November 8, 2023;
  - d. Final Major Site Plan Checklist (September 20, 2011 version completed);
  - e. Holland Township Site Walk Authorization dated November 6, 2023;
  - f. W-9 form dated November 6, 2023;
  - g. Restoration Landscape Plan for Holland Solar Farm, LLC prepared by Ian Hill, P.E. of Van Cleef Engineering, dated December 22, 2022, last revised February 8, 2023, comprising of two (2) sheets;
  - h. Certification from the Holland Township Tax Collector that taxes on the property are current dated November 9, 2023;
  - i. Certified lists of property owners within two hundred (200) feet of the subject property from Holland and Pohatcong Townships;
  - j. Letter of Certification issued by the Hunterdon County Soil Conservation District, dated May 22, 2023, for the disturbances that are the subject of this Amended Final Site Plan application;

- k. Transmittal letter from Van Cleef Engineering Associates, dated January 22, 2024;
  - l. A completed Planning Board & Board of Adjustment, Highlands Land Use, Township of Holland Application Form;
  - m. A completed Highlands Chapter 101 Land Use Checklist;
  - n. Final Major Site Plan Checklist (January 27, 2023 version completed);
  - o. Summary of Variances, Design Waiver & Submission Waivers Requested, dated January 22, 2024;
  - p. Stormwater Management Study – Addendum, prepared by Van Cleef Engineering Associates, dated October 31, 2023, last revised April 30, 2024;
  - q. Addendum to Highlands Compliance Statement – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024;
  - r. Addendum to Forest Impact Report and Mitigation Plan – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024;
  - s. Transmittal letter from Van Cleef Engineering Associates, dated March 1, 2024;
  - t. Amended Final Major Site Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering, dated June 5, 2020, last revised March 1, 2024, comprising of six (6) sheets;
  - u. Drainage Area Maps for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering, dated April 24, 2020, last revised April 30, 2024, comprising of two (2) sheets;
  - v. Overall SESC and Restoration Landscape Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering, dated April 14, 2023, last revised April 30, 2024, comprising five (5) sheets;
  - w. Memorandum entitled “Steep Slope Protection Area Discussion – Holland Solar Farm, LLC”, prepared by Highlands Compliance Insights, dated February 26, 2024;
  - x. Memorandum entitled “Landscape Review Responses” from Peg A. Prizer, LLA, ASLA of Van Cleef Engineering Associates, dated May 3, 2024;
  - y. Third Technical Review letter from Bryce D. Good, PE, the Board’s conflict Engineer from Finelli Consulting Engineers, dated May 7, 2024, consisting of eight (8) pages;
  - z. Planning memorandum prepared by Kendra Lelie, PP, AICP, the Board’s conflict Planner, initially dated February 8, 2024, last revised May 6, 2024, consisting of seven (7) pages; and,
  - aa. All exhibits otherwise marked and referenced during the March 11, 2024 and May 13, 2024 hearings.
12. The Applicant’s expert witnesses testified at the March 11, 2024 Board hearing regarding the landscaping plan proposed as it relates to the replanting of the additional disturbed areas noted.
  13. As part of the expert witness testimony before the Board during the March 11, 2024 hearing, the following exhibits were introduced:
    - a. Exhibit A-1- SESC and Restoration Landscape Plan, sheet 1, dated April 14, 2023, last revised February 27, 2024;
    - b. Exhibit A-2- list of trees by quantity/caliper range;
    - c. Exhibit A-3- SESC and Restoration Landscape Plan, sheet 3, dated April 14, 2023 last revised February 27, 2024; and,
    - d. Exhibit A-4- SESC and Restoration Landscape Plan, sheet 4, dated April 14, 2023 last revised February 27, 2024.
  14. The Applicant’s professionals also provided additional testimony concerning the proposed landscape plan and the types of trees and quantity of proposed trees to be replanted in the disturbed areas.
  15. After some discussion with the Board and the Board’s professionals concerning the proposed landscape replanting plan, the Applicant and the Board agreed to adjourn the hearing until May 13, 2024, so that the Applicant could further revise the landscape replanting plan to add additional information and detail as requested by the Board and its professionals during the hearing and as contained in the Board’s Conflict Planner and Conflict Engineer’s review memorandums.
  16. The hearing was continued to May 13, 2024 where at that time the Applicant appeared again before the Board with its expert witnesses.
  17. At that time, the Applicant presented the sworn professional testimony of Peg A. Prizer, LLA, ASLA, the Applicant’s landscape architect and Ian L. Hill, P.E. the Applicant’s engineer.
  18. Ms. Prizer provided testimony to the Board regarding the revised landscape replanting plan. Ms. Prizer testified as to Exhibit A-5, which was the revised landscape replanting plan for area 3 of the subject Property, which plan was revised on April 30, 2024.
  19. According to the testimony of Ms. Prizer, a total of thirty-four (34) trees were removed from area 3 and the proposed landscape replanting plan demonstrates a total of forty-seven (47) trees will be replanted in that area with additional shrubs for screening.
  20. As for the other identified area of concern, area 4 of the subject Property, Ms. Prizer provided testimony to the Board as to Exhibit A-6, which consisted of the revised landscape replanting plan for area 4. Ms. Prizer testified that, for area 4, a total of twenty-six (26) trees had been removed and that the revised landscape and replanting plan demonstrates a total of fifty-five (55) trees will be replanted in area 4 with additional shrubs for screening.

21. Ms. Prizer also testified that the Applicant had also updated the plans in accordance with the Board and the Board professionals' concerns raised to include tables identifying the species of trees, as well as the number of removed trees and the number of trees to be replaced.
22. Finally, Ms. Prizer testified that the revised landscape replanting plan was presented to the Board's Conflict Planner for this Application prior to the May 13, 2024 hearing continuation and that the Board's Conflict Planner was satisfied with same.
23. The Board's Conflict Planner, Elizabeth McManus, PP, AICP, was present at the May 13, 2024 hearing and confirmed with the Board that she was satisfied with the revised landscape replanting plan submitted by the Applicant, last revised April 30, 2024.
24. The last witness to testify on behalf of the Application during the May 13, 2024 hearing was Ian L. Hill, PE, the Applicant's engineer.
25. Mr. Hill testified that he was in receipt of the Board's Conflict Engineer's most recent review memorandum and that the Applicant would comply with any and all remaining comments raised in said letter, dated May 7, 2024.
26. The Board's Conflict Engineer, Bryce Good, PE, who was present at the May 13, 2024 hearing confirmed on the record before the Board that he was satisfied with said testimony and that the Applicant would comply with all remaining outstanding items contained in his May 7, 2024 review memorandum.
27. The Applicant has represented, and the Land Use Board has relied upon the representation, that the Applicant will obtain any and all other necessary governmental approvals, permits, letters, waivers and exemptions and will comply with the conditions of all other governmental entities.
28. The Applicant agrees to comply with all terms, conditions, and recommendations contained in all of the reports of the Township and Board officials and/or professionals, as if they were set forth at length herein.
29. The hearing was then opened up to the public for any comments and/or questions concerning the Application. At that time, one (1) member of the public spoke who questioned the monetary benefit that the Applicant had received from essentially clear cutting the additional acreage and if there would be any type of credit available to the Township as a result of said monetary benefit.
30. After the public portion of the hearing was concluded, the Board deliberated on the subject Application.
31. Ultimately, the Board found that the Application for amended preliminary and final site plan approval should be granted as the Applicant has demonstrated substantial compliance with the requirements of the IND Zone, the Township's Master Plan and its Land Use, Zoning and other Township ordinances, as well as with the Municipal Land Use Law ("MLUL"), *N.J.S.A. 40:55D-1 et seq.*

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Holland that based on all of the materials reviewed and the testimony adduced as set forth above, the Application of Holland Solar Farm, LLC for an amendment to the Preliminary and Final Site Plan Approval to permit additional clearing of approximately three point seventy seven (3.77) acres that took place during construction of the solar field and the ultimate replanting of trees in said disturbed areas for the premises located at 10 Mill Road in the Township of Holland and further identified as Block 2, Lot 1.01 on the official Tax Map of the Township (hereinafter referred to as "Application"). in the Township of Holland, County of Hunterdon and State of New Jersey, be and is hereby further APPROVED, subject to the following Conditions of Approval:

- A. The introductory clauses and all of the findings of fact set forth above are incorporated herein as if set forth at length, as Conditions of Approval.
- B. The Applicant shall comply with all of the terms, conditions and recommendations contained in all of the reports of Township officials and professionals. All reports are made a part of this Resolution as if set forth in their entirety.
- C. The Applicant shall comply with all of the directions of Township officials and professionals with respect to any changes made in the field during construction and shall amend its plans to reflect such compliance.
- D. The Applicant will comply with the directions of the Board conflict Engineer and Board conflict Planner and other officials with respect to all of the issues raised at the public hearing.
- E. The Applicant shall amend all necessary plans pursuant to this approval to depict compliance with any and all existing plans, reports, permits and waivers, and the conditions contained in each of them.
- F. The Applicant shall obtain and comply with all necessary local, State, and/or Federal permits to the extent same are necessary and/or required. The Applicant shall file with the Board and the Township copies of all transmittals to and from all government agencies.
- G. Subject to *N.J.S.A. 40:55D-52*, the Applicant shall comply with any and all requirements of Township Ordinances and all applicable Federal, State and local laws, rules and/or regulations.

A Motion to Approve the Application was made by Board Member Wilhelm and seconded by Board Member \_\_\_\_\_ at the Hearing held on May 13, 2024:

Roll Call: Voting “yes” in favor of approval:

Board Member Keady, Board Member Wilhelm, Vice Chair Miller, Chairman Martin, Board Member Moustakas, Board Member Cinquemani, Board Member O’Such and Board Member Kanakaris

Voting “no” in favor of approval: None.

A motion for the adoption of the within Resolution was made by \_\_\_\_\_ and seconded by Board Member \_\_\_\_\_ at the Land Use Board public meeting held on June 10, 2024:

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Mike Miller						
Nickolas Moustakas						
Bill Ethem						
William Martin						
Dan Bush						
Ryan Preston (Alt.)						
Joe Cinquemani (Alt)						
Kelly O’Such (Alt)						
Peter Kanakaris (Alt.)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on June 10, 2024.

ATTEST:

\_\_\_\_\_  
 Maria Elena Jeanette Kozak, Secretary  
 Holland Township Land Use Board

\_\_\_\_\_  
 William Martin, Chairperson  
 Holland Township Land Use Board

I certify that the above Resolution is a true copy of the Resolution passed by the Township of Holland Land Use Board on June 10, 2024.

\_\_\_\_\_  
 Maria Elena Jeanette Kozak  
 Land Use Board Secretary  
 Holland Township

Date signed: \_\_\_\_\_, 2024.

The resolution was distributed to all board members and professionals. Ryan Preston, Ken Grisewood and Scott Wilhelm recused themselves. A motion was made by Kelley O’Such and seconded by Nick Moustakas to memorialize the resolution. At a roll call vote, all present who could vote were in a favor of the motion with the exception of Bill Ethem who abstained. Motion carried.

**Public Hearings**

- Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance. Received into our office June 22, 2022 – The 45-day completeness deadline is July 11, 2022. Deemed Complete July 11, 2022. Public Hearing scheduled for August 8, 2022. Applicant granted an extension to the September 12, 2022 meeting (email 071822), then to October 10, 2022 (email 082622), then to November 14, 2022. (email 092122), then to December 12, 2022 (email 102822), then to January 9, 2023 (email 120622)



then to February 13, 2023 (email 010323) then to March 13, 2023 (email 020723), to April 10, 2023 (email 030623), to May 8, 2023 (email 040523), to June 12, 2023 (email 050323), to July 10, 2023 (email 052223), to August 14, 2023 (email 070523) to September 11, 2023 (email 080423,) ,October 9, 2023 (email 090723) , November 13, 2023 (email 10/06/23), December 11, 2023 (email 11/08/23), to January 8, 2024 ( email 12/01/23), to February 12, 2024 (email 01/03/24), March 11, 2024 (email 02/01/24) ,April 8, 2024 (email 02/29/24), to May 13, 2024 (email 04/01/24) and to June 10, 2024 (email 05/01/24), **Updated the Board 051324** that the NJDEP approved the garage proposal in the proposed location. **Board Action needed June 10, 2024**

A motion was made by Mike Keady and seconded by Joe Cinquemani to open the public hearing for Block 26 Lot 27. All present were in favor of the motion. Motion carried.

Applicant Davina Lapczynski was present and was sworn in.

All the proofs of notification were previously submitted and the board has jurisdiction. The board was reminded that this project began 2 years ago and Land Use Admin Kozak has supplied the board with updated materials as supplied during the whole process with the DEP. Originally Bohren & Bohren was working with the NJDEP and because the Engineer did not follow up in a timely fashion, Davina Lapczynski reminded the board that she had to hire another engineering firm, Dumack & Dumack which then meant her application filed was under the new NJDEP flood rules. This is the first property in Holland following the new DEP guidelines. The property is a preexisting non-conforming property that has been in existence prior to the zone being reclassified as a R5 (5 acre) zone. The deed shows that the lot was in existence before 1928. The property is 2.8 acres. The Heritage report showed that she was paying taxes to her property line which includes the road as the property line is across the street. There have been many changes to the codes and she discovered that she could not use the property line across the street. She cannot obtain more land from across the street as the street does not help her with being a conforming lot and the property to the rear is owned by the railroad and they are not interested in selling/cannot sell the land to a private homeowner. She can still share in the care of the land and pond but they cannot sell land to her to help her become a conforming lot. In more discovery, Davina Lapczynski discovered from the assessor that she has been paying for a 500 sq ft garage that does not exist but existed in the past. The zoning file shows that an applicant was issued a permit for a 25'x35' pole barn that would have been away from the house and in the area that floods from the river. Davina Lapczynski stated that when she wanted to build the garage, she looked at the property to determine the best location and what is presented for consideration is just that. The location has the best elevations and would not be an eye sore with the existing house. However, the location caused the need for variances as it has setback issues that are also tied to the shape of the property. The DEP finally approved her application for a garage in the flood zone but has many requirements. One requirement is that the building have flood vents. There are also other constraints with the property that include a PSE&G easement and wetlands. Member Wilhelm asked the applicant for some clarification with the application and it was stated that the applicant is seeking 'C' variances and there are no 'D' variances involved in the project.

Exhibit on the screen –

Bohren & Bohren print – what was submitted with the application was put up on the screen to show everyone the property. The powerline easement is easy to see.

Some additional history was given regarding the “other house” on the property and that in the past it was rumored that the property owner wanted to do a subdivision for each house. The “other house” is a shed used for storage or for the grandchildren to play in when they visit. There is not a kitchen or plumbing. There is a 200 amp service. The building is not water safe and Davina Lapczynski stated that she lost about \$15,000.00 of materials stored in the “other house” during one of the storms. This is why she wants a garage to store her stuff in a safe, dry location. The goal will be to clean up the property once a garage is built which will eliminate the carport and shed on the property. As for the existing house, flooding has been in the basement which eliminates the basement as a means for storage. Davina Lapczynski came back to the conversation of setbacks. She cannot purchase property to make the lot a conforming lot.

Exhibit on the screen showing pictures of the property. The street view shows where the garage will be. These pictures were distributed with the application.

Davina Lapczynski has the engineer present for testimony.

Member Cinquemani asked when the house was purchased and Davina Lapczynski stated that she purchased it in 2015 when it was in foreclosure. She questioned the acreage of the property in 2015 which included the road and the assessor said there was no proof that there should be an adjustment to the property for the road. When the Heritage report was received the assessor was contacted and the taxes reduced.

Member Wilhelm questioned the plans of June 10, 2024 and stated that the variances are not listed on the plan. Planner Green also cited additional variances needed for the project which triggered conversations about front

yard setbacks, rear setback issue and building relief. Member Wilhelm reminded everyone that the applicant needs to present the case and is required to present the burden of proof.

Chairman Martin asked Planner Green to discuss her review letter.

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Secretary Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

Good Morning Maria Elena,

Thanks for clarifying the status of the application.

I will be in attendance at Monday's meeting.

I will not be preparing a technical report on the application. There aren't substantive engineering related items to review on this project for the Board's consideration outside of the securing of the relevant NJDEP approvals. The remaining items are related to plan discrepancies between the various versions of the plans that were filed as well as variance related items which Darlene has addressed in her letter.

I will review the latest site plan and architectural drawings as well as the NJDEP permit that Ms. Lapczynski obtained prior to the hearing.

Thanks,  
Adam

**July 7, 2022**

**Land Use Board  
Township of Holland  
61 Church Road  
Milford, NJ 08848**

**Completeness Report #1  
Variance Application  
Davina Lapczynski  
Lot 27, Block 26 – 105 Riegelsville Road  
Colliers Engineering & Design Project No. HLP-0036**

**Dear Board Members:**

**Pursuant to your request, we have reviewed for completeness plans, applications and other documents filed by the Applicant Davina Lapczynski in support of a Variance Application for Lot 27 in Block 26 situated at 105 Riegelsville Road including:**

- 1. Completed Planning Board & Board of Adjustment Application Form, undated.**
- 2. Completed Board of Adjustment Checklist for Determining Completeness of Application, undated.**
- 3. Completed Township of Holland Planning Board & Board of Adjustment Highlands Land Use Application, undated.**
- 4. Email from Maryjude Haddock-Weiler stating the subject property is exempt from the Highlands Act and Highlands Regional Master Plan, dated June 16, 2022.**
- 5. Completed Checklist for Determining Completeness of Application for the Highlands Land Use Ordinance, undated.**
- 6. Completed W-9 Form, undated**
- 7. Completed Replenishment of Escrow Accounts Agreement, dated June 16, 2022**
- 8. Completed Certification of Ownership, dated June 16, 2022.**
- 9. Completed Site Walk Authorization Form, undated.**
- 10. Municipal Tax Certification, dated June 16, 2022.**
- 11. Completed Request for 200-foot property listing, dated June 22, 2022.**
- 12. Certified List of Property Owners dated June 22, 2022.**
- 13. Completed Fee Calculation Form, undated.**
- 14. Completed NJDEP Permit/Authorization Flood Hazard Area Applicability Determination Form, undated.**
- 15. Architectural plans and for the proposed garage structure, consisting of two (2) sheets, dated April 15, 2022.**
- 16. Architectural plan and for the proposed garage structure, consisting of one (1) sheet, dated June 20, 2022.**
- 17. Completed Elevation Certificate, dated August 31, 2015.**
- 18. Photos of the Subject Property.**

19. Plan entitled "Location Survey for Davina Lapczynski situated in Holland Township, Hunterdon County, New Jersey", consisting of one (1) sheet, as prepared by Ryan G. Warford, PLS, dated June 2021, last revised June 22, 2022.

**Application Summary**

The property in question is situated on the south side of Riegelsville Road (County Route 627) two and a half miles east of its intersection with Church Road. Lot 27 contains 2.709-Acres. The parcel is situated in the Township's R-5 (Residential 5-Acre) District where detached single-family residential homes and agricultural uses are permitted with minimum lot areas of 5-Acres or greater.

Lot 27 is currently developed with one (1) two-story single family residential dwelling, one (1) one story dwelling, driveway, two (2) storage buildings, above-ground swimming pool, septic tank and well. The residence currently takes access to Riegelsville Road by way of a gravel driveway.

The proposal for the property is to demolish the storage structure to the east of the two-story single-family dwelling and construct a one and a half story 720-SF (footprint), 30' x 24' garage with 2 overhead doors.

Per Land Use Ordinance Section 100-109.C.(2) concerning Undersized Lots, the minimum required setback from the street is 75-feet. The proposed garage structure is only 26-feet from the street right-of-way line, which necessitates the need for an application for variance relief.

We have the following comments on administrative issues:

**A. Completeness**

1. Based upon a review of the submission package, the following deficiencies are noted:

- a. **Checklist Items H-13** – A copy of the existing property deed was not provided in the submission package.

Unless waived by the Board, the Applicant must address the above deficiency in order for the application to be deemed complete.

2. The Applicant has indicated that the following items are not applicable:

- a. **Checklist Item H-4** – Submission of a Financial Disclosure Statement for a corporation or partnership.
- b. **Checklist Item H-5** – Submission of Hunterdon County Health Department Construction Permit Referral Form.
- c. **Checklist Item H-6** – Denial letter from the Zoning Officer.
- d. **Checklist Item H-7** – Copy of a letter from the Fire Company (if lot does not front on public street).
- e. **Checklist Item H-9** – Consent of Owner (if applicant is not owner).
- f. **Checklist Item H-25** – Floor plans of existing (if applicable) and proposed building.
- g. **Checklist Item H-27** – Applications for Development in the Preservation Area and Developments in the Planning Area.

Testimony must be provided in support of the above non-applicability determinations. The Applicant has provided a number of items above, including Item H-9 - Consent of Owner Form, Item H-25 - Floor plans of the proposed building, as well as correspondence indicating that a waiver from the NJ Highlands Council has been granted, addressing Item H-27.

**Conclusion**

Based upon the deficiencies outlined in Sections A.1. of this report, we recommend that the application be deemed incomplete by the Board at this time.


If any Board Members have questions or comments on this report, please do not hesitate to call us.

Adam Wisniewski will be at the July 11, 2022 Board meeting to review this report with you.

Sincerely,

Colliers Engineering & Design, Inc.  
(DBA Maser Consulting)

  
Paul M. Sterbenz, PE, PP  
Planning Board Engineer

  
Adam T. Wisniewski, PE  
Project Manager

Cc: Maria Elena Kozak, Board Secretary (via email [planningboard@hollandtownship.org](mailto:planningboard@hollandtownship.org))

**Darlene A. Green, PP, AICP, Board Planner (via email [darlene.green@colliersengineering.com](mailto:darlene.green@colliersengineering.com))**  
**John Gallina, Esq. Board Attorney (via email [jpgesq@embarqmail.com](mailto:jpgesq@embarqmail.com))**  
**Davina Lapczynski, Applicant (via email [lteccorp@aol.com](mailto:lteccorp@aol.com))**

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June 4, 2024

**PLANNING REPORT**

Land Use Board

Township of Holland

61 Church Road

Milford, NJ 08848

**Re: Davina Lapczynski**

105 Riegelsville Road  
Block 26, Lot 27  
Review Letter #2  
Project No. HLZ-0016

Dear Board Members,

Davina Lapczynski, the Applicant, seeks variance relief to permit the construction of a 24-foot by 30-foot two-car garage to the east of the existing dwelling on the property. Other site improvements include a deck between the proposed garage and existing dwelling, a retaining wall, a “garden” wall, and grading. An existing shed would be removed to construct the garage. The Applicant requires “C” variances, which are detailed in Section B.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled “Garage for Lapczynski”, unknown author, dated June 20, 2022, consisting of 1 page.
2. Plans entitled “C001 Building Site Plan”, prepared by Heath A. Dumack, MS, PE, PLS, CMA, FASCE of Dumack Engineering, dated August 11, 2023, revised through February 13, 2024, consisting of 4 sheets.
3. Plan entitled “C001 Flood Hazard Verification Plan”, prepared by Heath A. Dumack, MS, PE, PLS, CMA, FASCE of Dumack Engineering dated December 20, 2023, consisting of 1 sheet.
4. Plan entitled “Garage for Lapczynski”, unknown author, dated December 21, 2023, consisting of 4 sheets. (Note that this set of Plans supersedes Item #1 above.)
5. Survey entitled “Location Survey”, prepared by Ryan G. Warford, PLS of Bohren and Bohren Associates, Inc., dated June 22, 2022, consisting of 1 sheet.
6. Map entitled “Holland Township, NJ”, unknown author, dated June 14, 2022, 2022, consisting of 1 page (Streams).
7. Map entitled “Holland Township, NJ”, unknown author, dated July 10, 2022, consisting of 1 page (Streams and Historic Properties).
8. Map entitled “Holland Township, NJ”, unknown author, dated July 10, 2022, consisting of 1 page (Streams and Ta Parcels).
9. Map entitled “Riegelsville Quadrangle”, prepared by U.S. Department of the Interior, U.S. Geological Survey, dated 2023, consisting of 1 page.
10. Map entitled “Photo Location Map”, prepared by Dumack Engineering, dated October 17, 2023, consisting of 1 sheet and 3 pages of photographs.
11. Map entitled “Displacement of Flood Storage Area Calculation”, prepared by Dumack Engineering, dated December 14, 2023, consisting of 1 sheet and 2 pages.
12. Copy of FEMA Flood Insurance Rate Map #34019C0184G, revised May 2, 2012, consisting of 1 sheet and a Flood Profile (Sheet 42P).
13. Screenshot of NJMap Parcel Explorer, unknown author, no date, consisting of 1 page.
14. Planning Board & Board of Adjustment Application Form, no date.
15. Checklist, Board of Adjustment for Determining Completeness of Application, Section H, no date.
16. Planning Board & Board of Adjustment Application Form, Highlands Land Use, no date.
17. Checklist for Determining Completeness of Application, Submitted Under Chapter 101 Highlands Land Use Ordinance, Section I, no date.
18. NJDEP, Division of Land Resource Protection, Application Form for Permit(s)/Authorization(s), dated June 15, 2022.
19. NJDEP Natural Heritage Data Request Form, dated September 1, 2023.
20. Letter entitled “Davin Lapczynski”, prepared by Maria Elena Jennette Kozak, Township Land Use Administrator, dated July 7, 2022, consisting of 1 page.
21. Letter entitled “Flood Hazard Area Applicability Determination”, prepared by Dennis Contois, Supervising Engineer at NJDEP, dated July 8, 2022, consisting of 1 page.



22. Letter entitled "105 Riegelsville Road", prepared by Robert J. Cartica, Administrator of NJDEP Office of Natural Lands Management, dated September 27, 2023, consisting of 8 pages. (Note that this is a response to the Applicant's Natural Heritage Data Request.)
23. Letter entitled "Environmental Report", prepared by Jacqueline Aimino, Design Engineer at Dumack Engineering, dated October 19, 2023, consisting of 1 page and five 5 pages of maps.
24. Letter entitled "Engineering Report", prepared by Heath A. Dumack, MS, PE, PLS, CME, F.ASCE of Dumack Engineering, dated October 20, 2023, consisting of 2 pages.
25. Letter entitled "Flood Hazard Applicability Determination", prepared by Jacqueline Aimino, Design Engineer at Dumack Engineering, dated October 23, 2023, consisting of 1 page.
26. Letter entitled "Deficiency Letter: FHA Individual Permit; Verification Method 1 (DEP Delineation)", prepared by Dennis Contis, Supervisor of NJDEP Watershed & Land Management Program, dated November 28, 2023, consisting of 3 pages.
27. E-mail correspondence from Maryjude Haddock-Weiler, PP, AICP, Planning Manager at New Jersey Highlands Council, dated June 16, 2022.
28. E-mail correspondence from Danielle Ronquillo, Environmental Engineer at NJDEP, dated June 14 through 22, 2022.
29. Copy of Special Warranty Deed, recorded September 21, 2015.
30. Copy of Federal Emergency Management Agency (FEMA) Elevation Certificate, dated August 31, 2015, expires on July 31, 2015.
31. Copy of NJDEP FHA Individual Permit, Verification Method 1 (DEP Delineation), approved by Dennis Contois, Supervisor of NJDEP Watershed & Land Management, dated May 7, 2024, expires on May 6, 2029.
32. Packet of Photographs, unknown author, no date, consisting of 6 photos.

## Existing Zoning and Surrounding Land Use

The subject property is a triangular lot located on the south side of Riegelsville-Milford Road in the R-5 Residential District. The property is in the Highlands Planning Area and is adjacent to residential properties to the north, wooded areas to the east, a railroad property to the south, and a farmland assessed property to the west. See the image on the following page for the general location of the site.<sup>i</sup>

The bulk requirements of the R-5 District can be found in Section 100-46. However, Section 100-109C.(2) provides modified bulk requirements for undersized lots between two and three acres, which are as follows:

- Minimum Lot Width – 200 feet
- Minimum Lot Depth – 250 feet
- Minimum Setback from Street – 75 feet
- Minimum Rear Yard Setback – 40 feet
- Minimum Side Yard Setback – 40 feet

It should be noted that the maximum building height of 35 feet and 2.5 stories provided in Section 100-46 still applies.



## VariANCES

The Application requires the following variANCES:

1. Section 100-10A. – Variance for accessory building location. The Ordinance prohibits accessory buildings in required front yards.

The proposed two-car garage is located within the required 75-foot front yard setback. According to the Plans, the garage is set back 26 feet from the "legal right-of-way line". **The Applicant has not listed this variance on the Plans.**

2. Section 100-109C.(2)(c) – Variance for front yard setback. The Ordinance requires a 75-foot setback from the street on undersized lots between two and three acres.

The proposed two-car garage has a 26-foot front yard setback to the “legal right-of-way”. **The Applicant has not listed this variance on the Plans.**

3. Section 100-109C.(2)(d) – Variance for rear yard setback. The Ordinance requires a 40-foot rear yard setback on undersized lots between two and three acres.

The proposed two-car garage has a 38.27-foot rear yard setback **The Applicant has not listed this variance on the Plans.**

Based on the information provided, the following pre-existing non-conforming conditions exist:

1. Section 100-16 – The Ordinance prohibits more than one single-family dwelling on a lot. There are two existing single-family dwellings on the subject property.
2. Section 100-46 – The Ordinance requires a minimum lot area of five acres. The site contains 2.12 acres.
3. Section 100-109C.(2)(b) – The Ordinance requires a minimum lot depth of 250 feet for undersized lots between two and three acres. The subject property is 92.5 feet deep.
4. Section 100-109C.(2)(c) – The Ordinance requires a 75-foot front yard setback. The existing “main” dwelling is located within the Riegelsville-Milford Road right-of-way, the existing one-story dwelling is setback 30.07 feet, and the existing pool structure is setback approximately 53 feet from Riegelsville-Milford Road.
5. Section 100-109C.(2)(d) – The Ordinance requires a 40-foot rear yard setback. The existing one-story dwelling has a rear yard setback of 10.91 feet and the existing pool is within the required setback.
6. Section 100-112 – The Ordinance permits accessory sheds with a maximum gross floor area of 150 square feet in any required side or rear yard, provided that the structure is located behind the rearmost line of the principal building and at least ten feet from the side or rear lot lines. The existing shed to the west of the dwelling is within the required front yard and is not located behind the rearmost line of the dwelling.

## Variance Proofs

### “C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

## Waivers/Exceptions

This Application does not require any waivers/exceptions.

## Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that the current status of previously issued comments and new comments are provided in italics.

### General

1. The Applicant’s professionals must provide testimony to support the grant of the “C” variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. The Applications indicate variance relief is requested from Section 100-109C.(2)(c) and (d). However, we have identified an additional variance from Section 100-10A, which has not been requested. Additionally, no variances are listed on the Survey. The Applicant should revise the Survey to note all required variance relief.

*As of June 4, 2024, the Applicant has not submitted a revised Survey or Plans listing all required relief. **This comment remains outstanding; however, it can be a condition of any potential Board approval.***

3. The site is located in the Highlands Planning Area. The Applicant has submitted e-mail correspondence from Maryjude Haddock-Weiler, PP, AICP at the NJ Highlands Council. Ms. Haddock-Weiler indicates the proposed garage would qualify under Highlands Exemption #5, which states:

*Any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.*

4. The NJDEP Application included a copy of Architectural Plans, dated April 15, 2022, which included two sheets. Sheet A1 illustrates three elevations (front, river, and side), a Lower Level Plan, and an Upper Level Plan, while Sheet A2 illustrates a cross section. Both sheets are blurry, which makes small text and details illegible. The Applicant has also submitted Sheet A-2, dated June 20, 2022, which is noted to be sheet 2 of 3. This sheet only illustrates elevations of the proposed garage. The Applicant should submit a full set of the most recent Architectural Plans. Until this information is provided, we are unable to fully review the Application.

*The Applicant has submitted Architectural Plans, dated December 21, 2023, consisting of 4 sheets, which are clear and legible. This set of Plans supersedes the previously submitted Architectural Plans. This comment has been addressed.*

5. The Applicant's e-mail correspondence with NJDEP and the NJDEP Application indicate the lower level is designed to allow water to flow in and out of the structure. The Applicant shall provide testimony regarding the use of the lower level of the proposed garage if water is anticipated in the space.

*The Applicant received an FHA Individual Permit on May 7, 2024. Special Condition #3 states:*

*In order to relieve hydrostatic pressure on the proposed building during flooding, permanent flood vents shall be constructed at each floor to allow water to freely enter and exit during a flood as shown on the approved plan(s). These vents shall be maintained in good working order at all times and shall not be blocked under any circumstances."*

6. *The Site Plans illustrate the location of four "smart vent automatic foundation flood vents" along the rear and side walls of the proposed garage. However, the Architectural Plans only illustrate three vents. It appears that the missing vent on the rear wall conflicts with the proposed sliding barn doors. **This discrepancy shall be eliminated, which can be a condition of any potential Board approval.***
7. The Applicant has not indicated if any trees are required to be removed to construct the proposed garage. Based on the photographs submitted, it appears there is one large tree south of the existing shed that may be affected. Testimony shall be provided to clarify if any trees will be removed.

*As of June 4, 2024, it is unclear if any tree removal is required to construct the proposed garage. However, the nearest tree, which is a 40-inch tree to the south of the proposed garage, is not illustrated within the limit of disturbance as shown on Sheet 2 of the Site Plans. **Testimony shall be provided to clarify if any tree removal is required.***

8. *The Board should note that the Ordinance defines "Lot Area" as:*

*The total horizontal area included within the lot line. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the 'lot area' shall **not** include that part of the lot in use or to be used as the street.*

*According to the Survey, the property is 2.749 acres, which includes the area within the Riegelsville-Milford Road right-of-way. The Site Plans indicate the lot area is 2.12 acres, which appears to exclude the area within the right-of-way and would be considered the property's "lot area".*

9. *The Applicant received an FHA Individual Permit by NJDEP Watershed & Land Management on May 7, 2024, which approved the following plans:*

- *"C001 Flood Hazard Verification Plan", Sheet No. 1 of 1, dated December 20, 2023, last revised February 13, 2024; and*
- *"C001 Building Site Plan", Sheet No. 1 of 4, dated August 11, 2024, last revised May 3, 2024.*

*However, this office has only received the original "C001 Flood Hazard Verification Plan", dated December 20, 2023, and the "C001 Building Site Plan" revised through February 13, 2024. **The Applicant shall submit the most recent plans approved by NJDEP. This can be a condition of any potential Board approval to confirm no major changes were made to the plans.***

## Survey

10. The Survey does not include a table of the area, yard, and bulk requirements pursuant to Section 100-109C.(2). A table of the existing and proposed conditions should be added to the Survey to document any pre-existing non-conforming conditions and identify the required variances. This could be a condition of any potential Board approval.

*The Applicant has submitted Site Plans, which provide a table of the area, yard, and bulk requirements of the R-5 Zone on Sheet 1. However, the table provides the requirements of the R-5 Zone, not the requirements pursuant to Section 100-109C.(2).*

11. The Survey illustrates a 50-foot setback from the street, a 25-foot side yard setback, and a 25-foot rear yard setback. These setbacks are sourced from Section 100-109B for undersized lots. However, since



the subject property is 2.749 acres, Section 100-109C.(2) applies. The Survey should be revised to illustrate the correct required setbacks. This could be a condition of any potential Board approval.

*The Survey has been replaced with a Site Plan, therefore, this comment is no longer applicable.*

12. The July 7, 2022 Letter from the Township's Land Use Administrator states "Your proposal to construct a garage that would be connected to your two story dwelling on said property will require a variance application..." However, the Survey does not illustrate the proposed garage attached to the dwelling. Testimony shall be provided to clarify the location of the proposed garage and if it will be attached or detached from the dwelling.

*It should be noted that the Survey has been replaced with a Site Plan, which does not illustrate the proposed garage attached to the dwelling. **However, testimony shall be provided to clarify.***

13. The River Side and Right Side Elevations on the Architectural Plans illustrate a deck with steps to the lower level on the west side of the proposed garage. Additionally, the Applicant's e-mail correspondence with NJDEP indicates the deck is proposed to connect the back porch of the dwelling to the proposed garage. However, this deck is not shown on the Survey. Testimony shall be provided.

*The deck is not illustrated on the Site Plan.*

## Site Plan

14. *The Site Plans illustrate a proposed retaining wall between the northwest corner of the proposed garage and the southeast corner of the existing dwelling. The Floor Plans on Sheet A-1 of the Architectural Plans illustrates the proposed retaining wall, which appears to conflict with the proposed deck. However, if the proposed deck is at the grade of the driveway area, the retaining wall may be located below the proposed deck. **Testimony shall be provided to clarify.***

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design



Darlene A. Green, PP, AICP  
Board Planner

cc: Maria Elena Kozak, Planning Board Secretary (via email [planningboard@hollandtownship.org](mailto:planningboard@hollandtownship.org))

Adam Wisniewski, Board Engineer (via email [adam.wisniewski@collierseng.com](mailto:adam.wisniewski@collierseng.com))

Eric Bernstein, Board Attorney (via email [embernstein@embalaw.com](mailto:embernstein@embalaw.com))

Heath A. Dumack, Applicant's Engineer (via email [dumack@dumack.com](mailto:dumack@dumack.com))

Davina Lapczynski, Applicant (via email [lteccorp@aol.com](mailto:lteccorp@aol.com))

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As outlined in Planner Green's report, there are 3 variances being sought with 2 variances being the same but in different code sections. The variances are for the front yard from legal setback and then different setbacks for undersized lots. Planner Green said that the conditions of approval can include resubmittal of the plans with the required variances. There were some additional conversations about the flood vents discrepancy on the one set of plans vs the other set of plans. The plans need to be matching. There were conversations about the need to remove trees with Davina Lapczynski stating she had no intention of removing trees. She also stated the location she picked for the garage made sense as it was close to the street, close to the house, did not require a lot of disturbance to the property and did not require removing trees. The plans show a garage with a connecting deck to the house which triggered a conversation about a retaining wall below the deck. Planner Green suggested that some of the items in her letter that have been discussed tonight be conditions of the resolution.

Witness Jacqueline Aminio with Dumack and Dumack engineers was sworn in. Jacqueline Aminio stated that she worked on plans and has been with land development for 4 years with Dumack and Dumack. She stated that she received a degree from Rowan University and obtained her masters degree from Villa Nova University. She is not a licensed professional engineer and has never testified. Jacqueline Aminio explained that the applicant is seeking variances but that the property is very irregular with various preexisting conditions. She identified the riparian zone and that the proposed building is in an area that is the best in limiting disturbance but also explained that no matter where you put the garage you would have an issue with the 75' setback because of the shape of the property. Relief would be needed which then had Davina Lapczynski stating that



she worked with the NJDEP for a flood plain permit that would allow a garage in an area that the NJDEP agreed could be built in.

Witness - Heath Dumack with Dumack and Dumack was sworn in by Attorney DiYanni. Heath Dumack stated that he is a licensed engineer (in 46 states, including New Jersey) and he obtained his degree from Drexel in 1988. He stated that Jacqueline Aminio has been working under his license for the last 4 years. He explained that most Professional engineers have a masters in engineering., would like to see her obtain her engineering license but that she has been working on this project for shy of one year. Heath Dumack stated that there have been many versions of plans with NJDEP with revision updates while going thru the new permit process. Heath Dumack explained that he is more familiar with the Pennsylvania process for FEMA and the flood zone/flood plain disturbances and not as familiar with the NJDEP process but worked with them on this project. He believes that the experience encompassed a lot of learning for all parties. The proposed garage will allow for a 2 story garage in the flood zone. He will update the plans identifying the comment of Planner Green relating to the flood vents. He mentioned the flood permit which is many pages long and that Davina Lapczynski has to conform to all the requirements of the permit. He also explained that Jacqueline Aminio is working with Davina Lapczynski regarding the Holland Township Flood Plain permit that will be required in conjunction with obtaining a zoning permit once the project is approved by the Land Use Board.

Member Grisewood asked if a Letter of Interpretation was needed and the response was at the time no but if it is needed in the Flood Plain Permit paperwork then a LOI would be obtained. Engineer Wisniewski responded that the NJDEP issued a permit with delineation 1 so the department of freshwater wetlands was not needed and that if the NJDEP thought it was needed then the NJDEP would have asked for it in the application package. Member Grisewood questioned the condition of the permit for the garage of non-habitable building and the response was that the applicant needs to put that on the deed.

There were no other questions from the board members so the public hearing was opened to the public. No one stepped up to question anything however, Davina Lapczynski mentioned that there are people in the audience that are aware of the project and have talked with her about the project. With no other comments from the public, the applicant was asked if there were any other witnesses and the response was no.

Chairman Martin stated that the applicant and professionals agreed to address the items of Planner Green's report as conditions of resolution.

Member Wilhelm stated that this application should be denied as it is inadequate. Testimony was not accepted and the applicant asked the board to define what she should be seeking, which is unacceptable. The burden is on the applicant and not the board. He believes that he had to ferret out what the applicant was here for, that there is no record, exhibits were not labelled, and that the plans were not complete. He further stated that our ordinances are what we need to focus on and the applicant needs to explain the why there is a need for a variance and to prove to the board that it can be granted. He cannot vote in favor of this and he thinks there is nothing to vote on. Member Wilhelm suggests that the applicant have professionals reset the case and he does not think we should even take a motion. Chairman Martin asked the applicant if public hearing could continue to next month and Davina Lapczynski stated that she thought she did create a case. More discussions took place about how the applicant needs to determine what she wants. Attorney DiYanni suggested the applicant revise plans from comments this evening and present the proof as suggested by member Wilhelm plus explaining the variance being sought. Davina Lapczynski expressed her opinion that she meets burden of proof and that she can table the discussion to continue the public hearing and get a lawyer but she cannot change the property.

Member Grisewood asked if you moved the proposed garage to the west (toward the river) would you would still have setback issue? And the response was yes moving to the west does not relieve the hardship. Then he asked about moving to the east and the response was still that the variance request is not eliminated. The hardship is the lot configuration and you cannot build without relief. The board needs to grant the hardship variances for size, and angle configuration of the lot. More questions about the property included if the applicant noticed any other structures on the road that encroach the road with the applicant stating that there are other structures on Riegelsville Road close to the road so her request is consistent with the area. Another question was about what would be stored in the garage with the applicant stating that the main story of the garage is a garage and the lower level will be for storage more consistent with property maintenance such as lawnmowers, tractors boat maintenance and no hazardous materials. The applicant stated that nothing changed from the design originally submitted with the exception of elevations of flood vents as required by the NJDEP. The applicant stated that there will be no heating or plumbing but that there will be electric as the existing shed has 2 circuits which will transfer to the garage. Member Grisewood mentioned the revised plans with a date of May 3 2024 citing the disturbance of 4000 sq ft and asked about a soil erosion plan being a requirement with Engineer Wisniewski responding that the disturbance is less than 5000 so a soil erosion plan is not needed however if disturbance exceeds 5000 sq ft then the zoning permit could require the plan. Member Grisewood still expressed concerns with missing soil and sediment controls being shown on plan with Engineer

Dumack stating that they are working on submitting a permit for the wetlands buffer and that a wetlands professional was not involved as with all the revisions with the NJDEP no one discussed the buffer.

Member O'Such had some questions. Everyone spoke of setback relief but the dimensions were not discussed. What is the size of the building with a response that the building is to be a 2 story structure and 720 sq ft. It was further said that the soil disturbed will stay on the property when taking out the hill from which the soil will be redistributed and there will be some change in elevations. Jacqueline Amino stated that the proposed garage would be 26' from the front yard setback and 38.27 from rear setback.

Member Wilhelm state that this is the problem with the members ferreting out the information and the testimony and exhibits are not there. The burden is on the applicant and he feels that if board grants approval of the application, then why have a board as our members are pulling out the basics. More conversations took place and everyone agreed that this should be postponed. Member Grisewood stated that although the applicant is a lay person, it may be in the best interest to obtain a planner to put on the record testimony to justify the c variance and make the board comfortable. Applicant Lapczynski agreed to granting the extension.

A motion was made by Kelley O'Such and seconded by Joe Cinquemani to continue the public hearing till the next month with no further notice needed with the applicant agreeing to extend the time for decision. At a roll call vote, all present were in favor of the motion. Motion carried.

- Block 3 Lot 28.01 & 66– 195 Myler Rd & 191 Myler Rd - Darvill & Blanton – Minor Subdivision/Lot Line Adjustment with C Variance – Received into our office April 3, 2024 – The 45-day completeness deadline is May 18, 2024. Completeness May 13, 2024 – applicant granted extension May 10, 2024 to June 10, 2024. If deemed complete above then public hearing to follow June 10, 2024. **BOARD ACTION NEEDED.**

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Secretary Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

May 9, 2024

Land Use Board

Township of Holland

61 Church Road

Milford, NJ 08848

Engineering Review

Minor Subdivision Plan (Lot Line Adjustment)

191 & 195 Myler Road

Block 3, Lots 28.01 & 66

Holland Township, Hunterdon County, New Jersey

Colliers Engineering & Design Project No. HLP-0041

Dear Board Members:

Pursuant to your request, I have reviewed plans, applications, and other documents submitted by Jonathan Darvill and Carson Blanton in support of an application for minor subdivision plan approval to subdivide and merge a portion of Lot 28.01 with Lot 66 in Block 3 in the Township to provide future driveway access between Lot 66 and Myler Road.

The following documents were submitted to the Board in support of the application:

16. Planning Board & Board of Adjustment Application Form, dated March 28, 2024.
17. Document entitled "Narrative Statement", unknown author, no date, consisting of 2 pages.
18. Document entitled "Checklist for Determining Completeness of Application – Minor Subdivision – Township of Holland, Hunterdon County, New Jersey" no date.
19. Document entitled "Checklist Waiver Requests -Determination of Non-Applicability for – Minor Subdivision – Lot Line Adjustment – Block 3, Lots 28.01 & 66 – Holland Township, Hunterdon County", dated March 11, 2024.
20. Copy of Right-of-Way Grant for Electric Lines, dated July 16, 1953.
21. Copy of Deed, dated April 2, 1956.
22. Copy of Deed, dated September 2, 1964.
23. Document entitled "Township of Holland - Replenishment of Escrow Accounts" prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.
24. Document entitled "Holland Township – 61 Church Road, Milford, NJ 08848 – Certification of Ownership", prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.

25. Document entitled "Township of Holland – Site Walk Authorization", prepared by Jonathan Darvill and Carson Blanton, dated March 28, 2024.
26. Document entitled "Metes and Bounds Description" consisting of 4 pages, prepared by Pamela Mathews, PE, LS of Van Cleef Engineering Associates, dated January 15, 2024.
27. Certification of real estate taxes paid for Block 3, Lot 28.01, dated March 28, 2024.
28. Certification of real estate taxes paid for Block 3, Lot 66, dated March 28, 2024.
29. Certified list of property owners within 200 feet of Block 3, Lots 28.01 and 66 in Holland Township, prepared by Michelle Trivigno, CTA, dated April 9, 2024.
30. Certified list of property owners within 200 feet of Block 3, Lots 28.01 and 66 in Alexandria Township, prepared by Laura Whitaker, dated April 11, 2024.

### **Description of Application**

Both Lots 28.01 and 66 in Block 3 are developed lots within the Township's R-5 Residential District. Access to Lot 66 from Myler Road is currently provided by a driveway located on both Lots 66 and 43 of Block 3. The owner of Lot 43 disputes the entitlement of the applicant to continue using this driveway. In order to provide access to Lot 66, it is proposed that a portion of Lot 28.01 be subdivided and merged with Lot 66. The applicant intends to construct a driveway to provide access between the dwelling on Lot 66 and Myler Road.

Lot 28.01 in Block 3 has an area of 2.165 ± acres (an existing non-conforming condition) and 537.47 feet of frontage on Myler Road. The property is developed and contains a detached 1 story dwelling, a shed, and associated access driveway.

Lot 66 in Block 3 has an area of 12.480 ± acres and is developed with a detached 2 story masonry and frame dwelling, above ground pool, and corn crib.

The applicant is seeking minor subdivision plan approval subdivide and merge a portion of Lot 28.01 with Lot 66 in Block 3 in the Township to provide future driveway access between Lot 66 and Myler Road. The lot line adjustment would increase the area of Lot 66 in Block 3 by 14,505.48 ± square feet, as well as provide 103.53 feet of frontage along Myler Road. The proposed subdivision will reorient the front, rear, and side yard setbacks in accordance with the Ordinance.

I have the following comments on the application:

#### **D. Completeness**

4. Based on a review of the submission package vs. Checklist Section A no submission deficiencies were identified.
5. The applicant has requested that the Board waive the submission requirements for the following checklist items:
  - c. Checklist Item A-12 – Freshwater Wetlands Letter of Interpretation.
  - d. Checklist Item A-37 – Signed and sealed certification by the licensee.

The Board must obtain testimony from the applicant and its professional representatives to support the grant of the submission waivers.

6. The applicant has indicated that the following checklist items are "not applicable":
  - m. Checklist Item A-9 – A receipt indicating delivery of a completed application to the Hunterdon County Planning Board.
  - n. Checklist Item A-10 – A receipt indicating delivery of a completed application to the Hunterdon County Health Department.
  - o. Checklist Item A-11 – A receipt indicating the delivery of a completed application for Soil Erosion and Sediment Control Plan Certification to the Hunterdon County Soil Conservation District.
  - p. Checklist Item A-13 – Flood Hazard Area Permit issued by the NJDEP.
  - q. Checklist Item A-14 – Protective covenants or deed restrictions applying to the land.
  - r. Checklist Item A-15 – A certification from the tax assessor approving proposed block and lot numbers.
  - s. Checklist Item A-16 – Application for development in the Highlands Preservation Area.
  - t. Checklist Item A-18 – Soil testing results certified by a Professional Engineer.
  - u. Checklist Item A-44 – Detailed grading plan showing proposed buildings, driveways, etc.
  - v. Checklist item A-45 – Location and results of soil permeability testing
  - w. Checklist Item A-46 – Area of primary and secondary wastewater disposal field.
  - x. Checklist Item A-48 – Stormwater Management Plan in accordance with Article XXIV of the Township Land Use Code.

I agree with the “not applicable” designations listed above. However, it should be noted that the applicant has proposed this Minor Subdivision for the future construction of a driveway access from the dwelling on Block 3, Lot 66 to Myler Road. Many of these items will be required as part of the driveway permit review process.

**Completeness Summary**

If the Board approves the submission waivers, the application could be deemed complete by the Board at the May 13, 2024, meeting.

**E. Technical**

3. We defer to the May 7, 2024 Planning Report prepared by Darlene Green, PP, AICP as to planning and zoning issues, the relief that is needed from the provisions in the Township’s Land Use Ordinance, and the testimony that must be provided to support the request for relief.
4. I recommend that the Board condition any approvals on the following:
  - j. The payment of real estate taxes.
  - k. The payment of any outstanding fees and assessments.
  - l. The submission of future plans for the construction of a driveway.
  - m. The submission of plans for stormwater management facilities should the proposed driveway increase impervious coverage onsite by 2,000 square feet or more.
  - n. Submission of an application the Hunterdon County Soil Conservation District should the proposed driveway improvements disturb more than 5,000 square feet.
  - o. The procurement of approvals or waivers thereof from outside review agencies with jurisdiction (i.e. Hunterdon County Planning Board).
  - p. The applicant revising its subdivision plan to address comments by the Board and its professionals.
  - q. The submission of deeds for the reconfigured lots in forms satisfactory to the Board Attorney and Board Engineer. No deeds shall be recorded by the applicant until such time as the deeds are approved by the Board’s professionals and the signatures of the Chairman and Secretary are affixed to the deeds.
  - r. Any conditions through the legal review of Board Attorney Eric Bernstein, Esq.

**F. Conclusion**

I will not be in attendance at the May 13, 2024, Board meeting to review this matter.  
If any Board member has questions on this report, please do not hesitate to call me.

Sincerely,

Colliers Engineering & Design, Inc.



Adam T. Wisniewski P.E.  
Board Engineer

cc: Maria Elena Kozak, Planning Board Secretary  
Eric Bernstein, Esq., Board Attorney  
Darlene Green, PP, AICP, Board Planner  
Steven P. Gruenberg, Applicant’s Attorney  
Joseph Modzelewski, Applicant’s Architect

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May 7, 2024

**PLANNING REPORT**

Land Use Board

Township of Holland

61 Church Road

Milford, NJ 08848

**Re: Jonathan Darvill & Carson Blanton**  
191 & 195 Myler Road  
Block 3, Lots 28.01 & 66  
Review Letter #1



Dear Board Members,

Jonathan Darvill and Carson Blanton, the Applicants, seek variance relief to permit a lot line adjustment between the subject properties, Lots 28.01 and 66 in Block 3. As a result of the proposed lot line adjustment, 0.372 acres (0.333 acres excluding the area within the Myler Road right-of-way) of Lot 28.01 would be transferred to Lot 66. Based on the Subdivision Plan, it does not appear any site improvements are proposed as part of this Application. The Application requires a "C" variance and a waiver/exception, which are detailed in Sections B and D.

It should be noted that the Board granted minor site plan approval to construct a driveway from the private road known as "Goff Lane" to the dwelling on Lot 66 via Resolution memorialized on November 14, 2022. Aerial imagery reveals the approved driveway has not been constructed.

The following documents, which were submitted in support of the Application, have been reviewed:

1. Plan entitled "Minor Subdivision – Lot Line Adjustment", prepared by Pamela Mathews, PE, PLS of VanCleaf Engineering Associates and Joseph Modzelewski, PE of Old's Cool, LLC, dated January 15, 2024, consisting of 1 sheet.
2. Planning Board & Board of Adjustment Application Form, dated March 28, 2024.
3. Checklist for Determining Completeness of Application, Minor Subdivision, no date.
4. Document entitled "Narrative Statement", unknown author, no date, consisting of 2 pages.
5. Document entitled "Checklist Waiver Requests Determination of Non-Applicability for Minor Subdivision – Lot Line Adjustment", unknown author, dated March 11, 2024, consisting of 3 pages.
6. Document entitled "Metes and Bounds Description", prepared by Pamela Mathews, PE, PLS of VanCleaf Engineering Associates, dated January 15, 2024, consisting of 4 pages.
7. Copy of Right-of-Way Grant for Electric Lines, dated July 16, 1953.
8. Copy of Deed, dated April 2, 1956.
9. Copy of Deed, dated September 2, 1964.

**Existing Zoning and Surrounding Land Use**

The subject property is in the R-5 Residential District, on the south side of Myler Road (Lot 28.01) and east side of Goff Road (Lot 66). The property is in the Highlands Protection Area and is surrounded by residential properties. See the image below for the general location of the site. Note that the approximate location of the proposed lot line adjustment is shown in yellow and the proposed lot line of Lot 28.01 to be removed is shown in blue.<sup>ii</sup>



The bulk requirements of the R-5 District can be found in Section 100-46, the standards are as follows:

- Minimum Lot Area – 5 acres
- Minimum Lot Width – 325 feet
- Minimum Lot Depth – 350 feet
- Minimum Setback from Street Line – 75 feet
- Minimum Rear Yard Setback – 75 feet
- Minimum Side Yard Setback – 75 feet
- Maximum Height – 35 feet / 2.5 stories

**Variations**

The Application requires the following variations:

1. Section 100-46 – Variance for lot area. The Ordinance requires properties in the R-5 District to be at least five acres.

The Applicant proposes a lot line adjustment that would reduce Lot 28.01 from 2.165 acres (1.963 acres excluding the area within the Myler Road right-of-way) to 1.793 acres (1.629 acres excluding the area within the Myler Road right-of-way).

Additionally, based on the information provided, the following pre-existing non-conforming conditions exist:

1. Section 100-10A. – The Ordinance does not permit accessory buildings in any required front yard spaces. The existing shed on Lot 28.01 is located within the required 75-foot front yard area.
2. Section 100-45D. – The Ordinance permits barns, silos, and other structures associated with agricultural uses, provided that all setbacks in Part 1 are observed. Part 1 requires a rear yard setback of 75 feet. The existing corn crib is approximately five feet, eight inches from the property line shared with Lot 43, which is the current rear property line but would become a side property line as a result of the lot line adjustment. (It should be noted that documents submitted as part of a minor site plan application in 2022 indicated the corn crib was two feet, six inches from the western property line.)
3. Section 100-46 – The Ordinance requires lots in the R-5 District to be at least five acres. Lot 28.01 is currently only 2.165 acres (1.963 acres excluding the area within the Myler Road right-of-way).
4. Section 100-46 – The Ordinance requires lots in the R-5 District to be at least 350 feet deep. Lot 28.01 is currently only 183.2 feet deep.
5. Section 100-46 – The Ordinance requires a 75-foot front yard setback. The existing dwelling on Lot 28.01 has a 51.8-foot front yard setback.
6. Section 100-46 – The Ordinance requires a 75-foot side yard setback. The existing dwelling on Lot 28.01 has a 41.7-foot side yard setback to the western property line.
7. Section 100-46 – The Ordinance requires a rear yard setback of 75 feet. The existing dwelling on Lot 66 has a 48-foot rear yard setback to the eastern property line shared with Lot 43. It should be noted that the proposed lot line adjustment would result in the western property line becoming a side property line. (Note that aerial imagery and documents submitted as part of a minor site plan application in 2022 show two tent structures within the required setback.)

## Variance Proofs

### “C” Variances

NJSA 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property. The second criteria involves the C(2) or flexible “C” variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

### Waivers/Exceptions

The Application requires the following waivers/exceptions:

1. Section 100-174A. – Waiver/exception for lot dimensions. The Ordinance does not permit lot dimensions and areas to be less than required in Part 1. Part 1 requires properties in the R-5 District to be at least five acres.  
The Applicant proposes a lot line adjustment that would reduce the lot area of Lot 28.01 from 1.963 net acres to 1.629 net acres. **The Applicant has not requested this waiver/exception.**

## Comments

Based on our review of the above-referenced materials, we offer the following comments:

### General

1. The Applicant’s professionals must provide testimony to support the grant of the “C” variance and waiver/exception required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. We have identified one waiver/exception that has not been requested by the Applicant. The Plans should be revised to note this waiver/exception.
3. Section 101-7A (Highlands Land Use Ordinance) states, “This chapter shall apply solely to the use and development of lands located within the Township Highlands Area. Specifically, this chapter shall apply to any application seeking approval of a site plan..., subdivision, or change in use where approval of such application would: (1) For residential development create three or more dwelling units.” The Applicant proposes a lot line adjustment that would not create three or more dwelling units. Therefore, the Township’s Highlands Land Use Ordinance does not apply.
4. The Board should note that the Board granted minor site plan approval to construct a new driveway from the dwelling on Lot 66 to Goff Lane to the west via Resolution memorialized on November 14, 2022. However, based on aerial imagery, the driveway from Goff Lane has not been constructed. Additionally, the Narrative Statement indicates the purpose of the proposed lot line adjustment is to allow the Applicant’s to construct a driveway from Myler Road to the dwelling on Lot 66.
5. The Board should note that the Ordinance defines “Lot Area” as “The total horizontal area included within lot line. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the ‘lot area’ shall **not** include that part of the lot in use or to be used as the street.”



According to the Metes and Bounds Descriptions, Lot 28.01 includes 16.5 feet of the Myler Road right-of-way. Therefore, the area of Lot 28.01 within the Myler Road right-of-way is excluded from the calculation of lot area. The Subdivision Plan provides the existing and proposed lot areas as “gross lot area”, which includes the area within Myler Road and “net lot area”, which excludes the area within Myler Road.

6. During the previous application involving Lot 66, the front yard of the property was interpreted to be the western property line along Goff Lane, which was determined to be a 40-foot-wide easement. At the time of the previous application, this office had no issue with the Applicant's interpretation of the front yard. However, the proposed lot line adjustment would result in Lot 66 having frontage on Myler Road, a public right-of-way. The Ordinance defines “Yard, Front” as “A yard extending between side lot lines across the front of a lot adjoining a street.” Additionally, “Street” is defined as “Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway...” Therefore, the proposed lot line adjustment would result in Lot 66's front yard being along Myler Road. This also results in Lot 66's rear yard being the southwest property line and all other property lines, including the western property line along Goff Road, are the side property lines.
7. Note #1 on the Subdivision Plan references four documents, including the following:
  - Survey entitled “Boundary and Topographic Survey of Block 3, Lot 28.01 Township of Holland, Hunterdon County, New Jersey”, prepared by Finelli Consulting Engineers, dated August 17, 2023.
  - Plan entitled “Driveway / Minor Site Plan Frank & Robin Kaszas 195 Myler Road Prepared for: Sheet 4 – Block 3 – Lot 66 Holland Township, Hunterdon County, NJ”, prepared by Frey Engineering, LLC, dated May 2022, revised through September 1, 2022. (This Plan is also referenced in Note #6.)
  - Survey entitled “Location Survey for: Paul M. Kaszas Frank G. Kaszas Location: 195 Myler Road Holland Township, Hunterdon County, New Jersey”, prepared by Ronald L. Haffling & Assoc., Inc., dated February 14, 2006.
  - Plan entitled “Septic Design for Paul & Frank Kaszas Block 3, Lot 66 Holland Township Hunterdon County, NJ”, prepared by Jess Symonds, PE, dated January 20, 2022.

Additionally, Note #7 references “Driveway Plans consisting of three (3) sheets prepared by Old's Cool, LLC, dated 12/25/23.” The Applicant should submit a copy of the referenced surveys and plans for review.

#### Subdivision Plan

8. Note #7 indicates the subject property is in the Highlands Planning Area. This is incorrect. Both Lots 28.01 and 66 are in the Highlands Preservation Area. This error shall be eliminated and could be a **condition** of any potential Board approval.
9. As discussed in Comment #6, the proposed lot line adjustment results in Lot 66's front yard being along Myler Road, the rear yard being the southwest property line, and all other property lines being the side lot lines. The Bulk Zoning Data (Note #4) provides the existing front, side, and rear yard setbacks based on the property line along Goff Lane being the front yard for Lot 66. The Bulk Zoning Data should be updated to reflect the proposed yard designations as a result of the lot line adjustment.
10. It should be noted that the measurements for lot width and lot depth would need to be adjusted due to the new yard designations. The Applicant should update the Bulk Zoning Data to provide the proposed lot width and depth of Lot 66 based on Myler Road being the front property line. Depending on the information provided, a variance may be required for lot width.  
For reference, “Lot Depth” is defined as “The shortest horizontal distance between the front lot line (street line) and a line drawn parallel to the front lot line through the midpoint of the rear lot line.” Additionally, “Lot Width” is defined as “The horizontal distance between the side lines of a lot measured along a straight line parallel to the front lot line. Said measurement shall occur at the minimum required front setback line.”
11. The Bulk Zoning Data indicates Lot 28.01 is 183.2 feet deep. However, the western property line is 200 feet long. Excluding the 16.5 feet within the Myler Road right-of-way results in a depth of 183.5 feet. The Applicant shall provide testimony to clarify how Lot 28.01's depth was calculated.
12. The Bulk Zoning Data indicates the existing front yard setback of Lot 66 is 383.4 feet. However, we cannot find this dimension on the Subdivision Plan. The Bulk Zoning Data shall be revised to clarify the existing front yard setback of Lot 66.
13. The Bulk Zoning Data indicates the existing side yard setback of Lot 66 is 200.3 feet, which appears to be to the northern property line shared with Lot 28.01. However, this dimension is labeled 200.0 feet. This discrepancy shall be eliminated.
14. The Bulk Zoning Data indicates the existing rear yard setback (to become a side yard setback) of Lot 66 is 47.5 feet. However, a 48-foot dimension is illustrated on the Subdivision Plan. This discrepancy shall be eliminated and could be a **condition** of any potential Board approval.
15. Condition #4.a.a) of the 2022 Resolution memorialized on November 14, 2022 states, “corn crib to be removed and tent structures to be removed upon sale of property.” The Subdivision Plan still illustrates the existing corn crib. Additionally, aerial imagery from February 3, 2024 illustrates what appears to be the two tent structures southeast of the dwelling on Lot 66 (see Figure 1). The Applicant shall provide testimony to clarify if these structures will be removed. If not, relief from this Resolution condition may be required.



Figure 1 - February 3, 2024 aerial showing corn crib and tent structures still present on the property.<sup>iii</sup>

16. The Subdivision Plan labels Goff Lane as "Geoff Road". This error shall be eliminated and could be a **condition** of any potential Board approval.

Should you have any questions concerning the above comments, please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Sincerely,

Colliers Engineering & Design

Darlene A. Green, PP, AICP  
Board Planner

cc: Maria Elena Kozak, Planning Board Secretary (via email [planningboard@hollandtownship.org](mailto:planningboard@hollandtownship.org))  
Adam Wisniewski, Board Engineer (via email [adam.wisniewski@collierseng.com](mailto:adam.wisniewski@collierseng.com))  
Eric Bernstein, Board Attorney (via email [em Bernstein@embalaw.com](mailto:em Bernstein@embalaw.com))  
Steven P. Gruenberg, Applicant's Attorney (via email [stevenpgruenberg@gruenberglegal.com](mailto:stevenpgruenberg@gruenberglegal.com))  
Joseph Modzelewski, Applicant's Architect (via email [oldschoolllc@comcast.net](mailto:oldschoolllc@comcast.net))

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A motion was made by Scott Wilhelm and seconded by Kelley O'Such to open the public hearing. All present were in favor. Motion carried.

Attorney Gruenberg for the applicant is present and explained that in 2022 relief was granted for this property to have driveway access to Goff Lane. There are new owners and while they reviewed the resolution, that have a different proposal and worked with the land owner on Myler to obtain additional land that would allow them to have driveway access to Myler.

Attorney DiYanni stated that he reviewed the notice and board has jurisdiction.

Prior driveway access was from Myler thru a shared driveway. Change of ownership in the properties has cause the agreement of a shared driveway to be defunct and the need to obtain access paramount. Lot 66 was before the board with an application from Goff Lane requiring significant removal of trees, encroachment to wetlands and rough property to traverse. The new homeowners spoke with the owner at the entrance to the driveway and negotiated to purchase land that would allow Lot 66 to have a driveway to Myler.

Witness 1 – Jonathan Darvill purchased the land in 2022 and was aware of the driveway situation. He had a plan approved and when he went to get estimates, he saw all the potential issues which had him trying to find an alternative. He heard Mrs. Griffith was approach from the previous owners and that she was not in favor of selling some of her undersized lot but he approached her and she was in favor of the lot line adjustment. They wanted to do an easement and wants to keep it clean. The proposed driveway will be over the existing lawn area. He offered to swap land; however Mrs. Griffith is interested in mowing less grass. The existing lawn will require no tree removal or dep permitting. The applicants will abandon approval to Goff Lane if the board grants this approval. Planner Green's report was reviewed and is in the minutes. On page 7 there is mention of the corn crib which will be removed as a condition of approval. There were no other comments from the



board and professionals. The public was asked if there were public comments and someone mentioned that they are a neighbor who did not have anything to say other than hello.

Witness 2 – Joseph Modzeleski, Engineer - -Sworn in by Attorney DiYanni and offered by Scott Wilhelm as an expert in his field. His license is in good standing since 1990.

Exhibit A1 – plan – submitted to the board with 2 caveats...no new submittal to Planner Greens comment but will address her comments. It is all on how variances are worded. If lot 66 is approved then it has sufficient road frontage and doing a minor subdivision is actually making lot 66 more conforming. PLAN revised May 7 2024 clearly depict this property and responds to the planner's review letter. .37 acres from lot 28 lot would be merged to lot 66. With the understanding that both lots are preexisting nonconforming lots. Lot 28 has accessory structures within the front yard setbacks and they have been there. Variances for lot 66 is more about reorienting the lot. The plan shows the prior driveway, the prior approved driveway and the proposed driveway as well as the wetland. Attorney Gruenberg state that the frontage on Myler is it better than going thru wetlands to Goff Lane and Engineer Modzeleare ski agreed that it is more proper.

Variances – Mrs. Griffith lot will be reduced to 1.6 acres with no right of way and no structures are being added so the setbacks do not really apply. The only change to the area would be the addition of a driveway and a road opening. In eliminating the chicken coop and structures on lot 66 everyone believes this is better for the area. Engineer Modzeleski stated that he would agree to the items in Board Engineer Wisniewski's letter as conditions of a resolution however requested clarification regarding stormwater and said the applicant would comply with requirements. Revised plans will address Planner Green's concerns. Engineer Modzeleski stated that he has consulting firm and worked with Holland Township many times over the years. He also stated that he worked with Van Cleef with this project. He also stated that he will perfect the subdivision with deeds to the satisfaction of the boards professionals

Board comments: Member O'Such asked about working on s stormwater and soils while member Grisewood had some questions about the utility easement and the need for JCP&L to provide authorization with the engineer responding that the applicant will do a professional letter. Engineer Wisniewski reminded everyone that the previous application obtained a construction referral in the wetlands transition and thinks the applicant can file the same way which the engineer agreed to. In review of Planner Green's letter, as conditions of approval being spelled out in the resolution, Attorney DiYanni will state that the applicants agrees to the items in Planner Greens letter as 8 9 10 12 14 16 . Member Ethem questioned the prior approval and as a condition of approval it will state that the resolution will be abandoned.

The public portion was opened to the public and there was no comment

Witness 3 – John Madden, Planner. Sworn in by Attorney DiYanni and offered by Scott Wilhelm as an expert in the field. He has testified before the board and his license is in good standing.

Exhibit A 2 – google arial maybe 2022

Exhibit A3 – street view of google maybe 2022

Planner Madden explained that the applicant needs a c1 and c2 variance and must show exceptional and undue hardship. In his opinion, this is pretty clear. The applicant does not have driveway access and is landlocked. The approved land has flaws and problems which conflict with the township and the Highlands and justifies what the application is requesting but also makes another lot less conforming by taking away land. There is no real negative impact by doing that. The C2 variance is a flex variance in that the benefit outweighs negative. To install a driveway to Goff Lane would have to require inlets, traversing wooded areas, potentially removing trees and in his opinion that is all a negative especially in light of the recent tree ordinance being adopted in an effort to protect the trees and protect the water supply. Wetlands is another issue and is governed by state law. While making the one lot less conforming from a planning perspective the positive of making lot 66 more conforming by adding road frontage to Myler Road with the least amount of disturbance to the Township is more positive. In his opinion, a driveway off Myler is better than Goff. Again the C2 – negative public good and detriment to zone ordinance has to be reviewed and to construct a new driveway allows for privacy and the convenience of not sharing the driveway just outweighs a negative. You are eliminating the shared maintenance argument, there are not utilities affects, the house is 133 feet from the neighbor and the area the neighbor is selling was just lawn that was mowed so the addition of a driveway is limited in disturbance. There are no visual impacts to the neighbors and it does not have an impact on the zone plan and ordinances. The Master Plan does promote environmental protection so not cutting trees is consistent with the plan. In regards to the impact to neighbors, it is minimal. There are a number of undersized lots in this area with 7 on the 200 foot list being less than 5 acres. Again the benefits of the proposed new driveway outweighs previous approve driveway from Goff Lane even on a least amount of disturbance concept.

The public portion was opened and Keth Konnecke of 203 Myler Road was sworn in by Attorney DiYanni who then stated that he thinks this is a no brainer and that the proposed driveway to Myler Road makes sense.

Board comments – Member Grisewood asked if the applicant has any intention of further subdividing the land and they would be aggregable to a deed restriction.

Attorney Gruenberg stated that the testimony given tonight supports that the applicant meet burden of proof and that the proposed driveway to Myler Road is a better alternative especially to what board previously approved and that the applicant agrees to conditions of the professionals.

With no further comment from our professionals or the board members a motion was made by Scott Wilhelm and seconded by Joe Cinquemani to grant temporary and permanent waivers and to approve the application with all conditions mentioned at this meeting and agreed to from the applicant and the professionals, to abandon the prior board approval for the driveway to Goff Lane as well as to include all other standard conditions. Ata roll call vote, all present were in favor of the motion. Motion carried.

### **Sub-Committee Status and Updates:**

Holland Township Highlands Council Subcommittee – Mike Keady and Dan Bush – Nothing new to report.

Home Occupation subcommittee – Ken Grisewood – this was on a hiatus because of the stormwater reassignment of Tier B to Tier A. It is tabled for the time with the hope that discussions can begin again sometime in 2024.

### **Public Comment**

There were no members of the public present for public comment at this time.

### **Executive Session**

There was no Executive Session scheduled at this time.

### **Housekeeping:**

There was no Housekeeping scheduled at this time.

### **Adjournment**

Ken Grisewood made a motion to adjourn. Motion approved. The meeting ended at 9:00 p.m.

Respectfully submitted,

*Maria Elena Jennette Kozak*

Maria Elena Jennette Kozak  
Land Use Administrator

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<sup>i</sup> Image obtained from NJ Highlands Council Interactive Map, [https://www.nj.gov/njhighlands/gis/interactive\\_map/](https://www.nj.gov/njhighlands/gis/interactive_map/).

<sup>ii</sup> Image obtained from <https://www.nearmap.com/us/en>, dated February 3, 2024.

<sup>iii</sup> Image obtained from <https://www.nearmap.com/us/en>, dated February 3, 2024.