

**Resolution
of the
City of Millville
Zoning Board of Adjustment
Cumberland County
New Jersey**

RESOLUTION NO. 16-2023ZB

WHEREAS, Daniel & Allison Flanigan have made application to the Millville Zoning Board of Adjustment seeking a bulk variance to construct a single family residence at a property located at 9 Bethel Road and known on the Official Tax Maps of the City of Millville as Block 21, Lot 48, Tax Map Sheet 5, within the Agricultural Conservation (AC) Zone; and

WHEREAS, upon a finding that the applicant had provided proper mailed and published notices and that jurisdiction was proper in the Board this application was heard by the City of Millville Zoning Board at its regular meeting of September 7, 2023; and

WHEREAS, the applicant, Daniel Flanigan, was sworn, and offered his testimony in support of the application; and

WHEREAS, Robert O’Sullivan, applicant’s real estate agent, was sworn and offered his testimony in support of the application; and

WHEREAS, the Board has made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The applicant is the holder of a contract to purchase the subject property which constitutes “an enforceable proprietary interest” sufficient to establish the

applicant's status as "developer" under the Municipal Land Use Law N.J.S.A. 40:55D-4, and therefore has standing to bring this matter before the Board.

2. The applicant has provided proper mailed and published notices of hearing, and jurisdiction is proper in the Board.

3. Application has been made for a bulk variance to construct a single family residence at a property located at 9 Bethel Road and known on the Official Tax Maps of the City of Millville as Block 21, Lot 48, Tax Map Sheet 5, within the Agricultural Conservation (AC) Zone.

4. The applicant has submitted the following documents in support of its application:

A. City of Millville Zoning Board of Adjustment Application Form, dated June 15, 2023;

B. Transmittal from Robbie Conley, Architect, dated 6/23/2023;

C. Request for List of Property Owners within 200 Feet;

D. Site Plan for Individual Sewage Disposal System, prepared by Sanford S. Mersky PE, of South Jersey Engineers, dated May 31, 2023;

E. Site Plan: Zoning Information, prepared by Robbie J. Conley, AIA PP, for Robbie Conley dated June 21, 2023;

F. Proper application and escrow fees as required by ordinance:

5. The Board's Planner and Engineer, Barbara Fegley and Wayne Johnson, submitted an Engineering & Planning Report dated August 24, 2023 commenting on the application which is hereby incorporated into the record.

6. Block 21, Lot 48 is approximately 0.68 acres (29,419 +/- square feet) in size and is currently vacant land.

7. The applicant proposes to construct a single-family residence with attached garage on the lot with a proposed septic system.

8. The lot has pre-existing nonconforming bulk standards regarding minimum lot area and depth within the Agricultural Conservation Zone.

9. Required setback for the front yard is 75 feet and 59 feet are proposed.

10. Required setback for the rear yard is 75 feet and 46.5 feet are proposed.

11. Mr. Flanigan stated that he wished to construct a single family residence on the property. The residence would be occupied by himself and his family.

12. Mr. Flanigan stated that he was aware of the requested variances and the Planning and Engineering Report.

13. Mr. O'Sullivan stated that there are homes along Bethel Road that are similar to what is being requested.

13. City Zoning Official, Wayne Caregnato, stated that lots surrounding the subject property are smaller or of equal size and have been developed, so to develop this property would not be a major change to the immediate area.

14. Mr. O'Sullivan confirmed that this creates a setback issue and the need for the variances.

15. City Planner, Ms. Fegley, stated that additional permits from other agencies may be required to develop the subject property.

20. The Board accepts the testimony of the applicant and his real estate agent as credible and probative.

21. Public Comment was offered by the following:

1. Linda Murray - Ms. Murray was sworn in. Ms. Murray stated that the road is a single land road and she is concerned about adding more traffic. Not many cars fit on the road and sometimes cars must pull to the side to allow other cars to pass. She inquired if the applicant will live at the residence or is it just to build and sell.

2. Sue Dawson - Ms. Dawson just purchased a home on Bethel Rd adjacent to the subject property. She expressed concern about privacy as it relates to the proximity of the properties. The back of her property abuts the back of the subject property.

3. Tim Williams - Mr. Willaims stated that the property would be right next to his property and he was concerned about privacy.

22. Vice Chairman William Smith stated there is proposed 59ft from one property, 38ft from another and 60ft on the other side. The proposed structure seems to be centered on the subject property.

23. Board Member Ricardo Lim inquired as to how many vehicles would be at the residence. Mr. Flanigan stated that there would be 4 cars. Mr. Lim stated that he did not see any significant traffic issues being created.

CONCLUSIONS OF LAW

1. The Board finds that the proposed bulk variance can be approved pursuant to N.J.S.A. 40:55D-70(c)(2), because with regard to this particular property the benefits of the community of providing amenities on this property that are consistent with development of the neighborhood outweigh any detriment to the public good or impairment of the zone plan that may flow from these relatively minor deviations from applicable ordinance standards. Because the property improvements are typical of those found on similar nearby properties, a single family residence could be constructed in the proposed location. The Board has determined that the applicant has demonstrated the need for the structure, and does not perceive any substantial detriment to the public good or impairment of the zone plan which would flow from the proposed development.

Therefore, the Board finds it appropriate, pursuant to N.J.S.A. 40:55D-70(c)(2), and subject to appropriate conditions, to grant the requested bulk variance.

In addition to the conclusions set forth above the applicant has fulfilled the procedural requirements for the proposed development. Therefore, the requested bulk variance should be granted.

NOW, BE IT RESOLVED by the City of Millville Zoning Board of Adjustment in the County of Cumberland, State of New Jersey that the application of Daniel & Allison Flanigan seeking a bulk variance to construct a single family residence at a property located at 9 Bethel Road and known on the Official Tax Maps of the City of Millville as Block 21, Lot 48, Tax Map Sheet 5, within the Agricultural Conservation (AC) Zone, be and hereby is **GRANTED**, subject to the following conditions:

1. The Board relied upon the testimony of the applicant and factual findings discussed above in this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth herein.

2. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: City of Millville Construction Department, City of Millville Public Works, Cumberland County Board of Health, Cumberland County Soil and Water Conservation District.

3. Grading plans of future development shall be submitted to the City Engineering and Construction Offices for approval.

4. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend same.

5. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required and shall provide the Board with copies of all reports and approvals from same, including copies of any and all applications filed.

6. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date thereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not perfect this approval within one year of the date hereof (or such extended date as may be provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

ROLL CALL

Motion to Approve:
Seconded:

MEMBER	YEA	NAY	ABSENT	ABSTAIN	EXCUSED
Kevin Smaniotto, Chairman					
William Smith, Vice-Chairman					
John Worthington					
Paul Williams					
Timothy Carty					
William Beck					
Ricardo Lim					
Vacant, Alt. I					
Angeline Broomhall, Alt. II					
Vacant, Alt III					
Vacant, Alt. IV					

AND BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the applicant and to all who request a copy for a reasonable fee. In addition, a copy of this Resolution shall be filed in the Office of the Zoning Board Secretary of the City of Millville.

By: _____ By: _____
 Itzel Torres, Board Secretary Kevin Smaniotto, Chairman

Dated:

CERTIFICATION

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the City of Millville at a meeting of September 7, 2023, memorializing action taken by the Board at its regular meeting held on October 5, 2023.

By: _____
Itzel Torres, Board Secretary