

# TOWNSHIP OF MIDDLETOWN

## Zoning Board of Adjustment and Appeals

1 Kings Highway  
Middletown, NJ 07748-2594

JAMES HINCKLEY  
*Chairman*



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### TECHNICAL MEMORANDUM

**DATE:** June 11, 2021  
**BOARD:** Zoning Board of Adjustment and Appeals  
**APPLICATION:** Yacus (#2021-005)  
107 Murphy Road  
Block 557, Lot 2  
R-22 Zone  
Bulk "C" Variance for Side Yard Setback

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#### **PROJECT DESCRIPTION & VARIANCE SUMMARY**

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The applicant is proposing to construct a 380 square feet addition to their home. Variance relief is required for side yard setback where 15' is proposed and 20' is the minimum required.

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#### **PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USES**

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The subject property is irregular in shape, and contains an area of 27,144 square feet on Murphy Road in the R-22 Residential Zone District. The site is currently developed with a split frame single-family dwelling, in ground pool, patio, accessory shed and associated driveway.

The subject property is surrounded by predominantly residential uses in the R-22 Zone District. Harmony elementary school is located across from the subject site on Murphy Road.

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#### **PLANNING COMMENTS**

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##### **A. Variances**

The proposed development requires variance relief from the minimum side yard setback requirement for principal buildings. Section 540-911.A(2) requires a minimum side yard setback of 20' for principal buildings where 15' is proposed.

##### **Statutory Requirements for the granting of bulk variance relief**

Based on the Municipal Land Use Law standard for granting bulk variance relief, the applicant shall indicate to the Board whether a "hardship" variance or "flexible C" variance will be sought for the bulk variance indicated above, and provide testimony supporting the chosen approach.

### **Many Neighborhoods. One Middletown!**

Belford ◊ Chapel Hill ◊ Fairview ◊ Harmony ◊ Leonardo ◊ Lincroft ◊ Locust ◊ Middletown Village  
Monmouth Hills ◊ Navesink ◊ New Monmouth ◊ North Middletown ◊ Nut Swamp ◊ Oak Hill ◊ Port Monmouth ◊ River Plaza

Physical Characteristics - N.J.S.A. 40:55D-70.C(1) (a/k/a Hardship Variance) – Testimony should indicate if strict application of the setback requirement would result in peculiar and exceptional difficulties, or exceptional and undue hardship, to the applicant.

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property;
- By reason of an extraordinary or exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Benefits Outweighing Detriments - N.J.S.A. 40:55D-70.C(2) (a/k/a Flexible C Variance) - The applicant may also establish, in the absence of proving “hardship,” whether the granting of a variance will further the purposes of the Municipal Land Use Law, and if the benefits of granting the variance will substantially outweigh any detriment.

Negative Criteria - Additionally, with any type of C variance, testimony should confirm that the proposed improvements requiring bulk variance relief will not create a substantial detriment to the public good or substantial impairment of the intent and purpose of the Master Plan and the Zoning Ordinance.

Landscaping with evergreen shrubbery may be considered to soften the visual impact of the addition.

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## MISCELLANEOUS

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1. Grading Plan approval from the Township Engineer shall be made a Condition of Approval.

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## DOCUMENTS REVIEWED

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- Location Land Survey for Block 557, Lot 2, consisting of one sheet, prepared by Thomas Craig Finnegan P.L.S., dated March 25, 2021;
- Architectural plans for 107 Murphy Road, consisting of two sheets, dated March 28, 2021, including a revision dated of January 12, 2021;
- Zoning Officer denial letter, dated January 11, 2021;
- Application for Development Permit, received by the Zoning Department on January 4, 2021;
- Certification of taxes; and
- Project Narrative, undated.

I reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

**Report Prepared by:**



Amy H. Sarrinikolaou, PP, AICP  
Director of Planning

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**LOCATION MAP**

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