

**AMENDED MINUTES**

**OCTOBER 1, 2013**

**BOARD OF ADJUSTMENT**

**LONG HILL TOWNSHIP**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

Chairman Behr called the meeting to order at 8:01 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in December, 2012.

**MEETING CUT-OFF**

Chairman Behr read the following statement: Announcement was made that as a matter of procedure, it was the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion was passed by the members then present to extend the meeting to a latter specified cut-off time.

**CELL PHONES AND PAGERS**

Chairman Behr read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

On a call of the roll the following were present:

Excused:

E. Thomas Behr, Chairman  
Sandi Raimer, Vice Chairman (10:10 P.M.)  
Jerry Aroneo, Member  
Edwin F. Gerecht, Jr., Member  
Michael Pesce, Member  
Richard Keegan, Member  
Felix Ruiz, Member

Dawn Wolfe, Planning &  
Zoning Administrator

Barry Hoffman, Bd. Attorney  
Thomas Lemanowicz, Bd. Engineer  
Kevin O'Brien, Twp. Planner

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**EXECUTIVE SESSION**

It was determined that there was no need to hold an executive session.

**OATH OF OFFICE**

Mr. Hoffman administered the Oath of Office to Mr. Pesce and Mr. Keegan.

**PUBLIC HEARING (cont'd)**

**TERENCE GOLDEN**  
49 Poplar Drive  
Block 10512, Lot 1

**#12-03Z**  
Use Variance  
Bulk Variances  
Prelim./Final Site Plan

Terence Golden had applied to the Zoning Board of Adjustment of the Township of Long Hill for preliminary and final site plan approval in order to construct a building to be used as an office, for storage and for vehicle maintenance for a construction company, together with related site improvements, with such approval also requiring use and bulk variances, design standard exceptions and waivers and a variance to build upon a lot fronting on a street which

was not improved to Township standards, as well as a Development Permit under the Township Flood Damage Prevention Ordinance, with respect to property known as Block 10512, Lot 1 on the Tax Map of the Township, located on the southerly side of Walnut Avenue at the intersection of Poplar Drive, which premises are in a Board-2 Zone.

1. The subject property is an L-shaped lot owned by the applicant which contains some 70,042 square feet. It is located on the east side of Poplar Drive between Walnut Avenue and Magnolia Avenue. The property is located within the Board-2 General Commercial Zone of the Township. Since purchasing the property in 1983, the applicant has used portions of it as a construction storage yard for equipment, materials and vehicles.
2. Pursuant to a Resolution adopted by the Board of Adjustment on May 1, 2001 (Application No. 00-6Z), the applicant was granted use and bulk variances and site plan approval in order to relocate the storage yard from the western portion of the property to the eastern part of the property and for the construction of an off-site parking lot on the western portion of the site (to be utilized by an adjacent Little League baseball complex). Currently, there are some 34 Little League parking spaces on the western portion of the property.
3. The applicant sought approval to construct a two-story masonry building on the western portion of the property. The building, which would be 60 feet in width and 50 feet in depth, would contain 3,000 square feet of floor space on its first floor and 1,818 square feet of floor space on its second floor. Following the completion of construction of the proposed building, there would be a reduction to 25 Little League parking spaces, as well as 4 new automobile spaces which would be available to the Little League during off-hours. The applicant would have some 9 automobile spaces and 7 trailer spaces for its business use of the property.
4. The applicant's proposal was more appropriately depicted on the following plans:
  - (a) A site plan prepared by Fisk Associates, P.A., Engineers- Surveyors-Planners, dated January 4, 2013 and revised to September 17, 2013, same consisted of five (5) sheets.
  - (b) Floor plans and elevations prepared by GRA Architects, dated January 21, 2013 and revised to September 26, 2013, same consisted of a single sheet.
5. In addition to requiring site plan approval, the applicant's proposal involved an expansion of the nonconforming usage of the property pursuant to N.J.S.A. 40:55D-70(d)(2) since the proposed usage was not permitted under Section 122.6(a) of the Township Land Use Ordinance.
6. The applicant also required the following bulk variances, exceptions or waivers:
  - (a) In accordance with Section 131, the Schedule of Bulk Requirements in the Ordinance, the applicant required a bulk variance pursuant to N.J.S.A. 40:55D-70(c) since the allowable lot coverage under the aforementioned Schedule of Requirements is 40%. The existing lot coverage at the property is 41.77% and the proposed lot coverage would be 49.29%.
  - (b) A bulk variance was required since the required front yard setback in the Zone in accordance with the aforementioned Schedule of Bulk Requirements is 50 feet and the proposed new building would be set back 28.4 feet from Magnolia Avenue.
  - (c) A bulk variance was required since the required side yard setback in the Zone in accordance with the aforementioned Schedule of Bulk Requirements was 20 feet and the proposed new building would be offset 16.1 feet from the side yard of the property.
  - (d) A bulk variance was required since the applicant proposed to have parking located within the front yard in contravention of Section 151.2(c) of the Ordinance.
  - (e) A design exception or waiver was required from Section 151.2(e) of the Ordinance since the applicant proposed to construct a sidewalk which would be flush with the parking lot and Section 151.2(c) of the Ordinance requires that the sidewalk be raised six (6) inches or more above the parking lot.
  - (f) A design exception or waiver was required since Section 152.2(g) of the Ordinance requires that parking stalls be clearly marked and delineated with "hairpin" striping; and the applicant sought relief from this requirement within

the grass-surfaced parking area for the Little League. Hairpin stripes would be provided within the new paved parking area.

- (g) A design exception or waiver was required since Section 151.2(f) of the Ordinance requires that all parking areas be curbed and paved and the applicant did not propose to have curbing of the parking lot with the grass surface for the Little League. The new paved parking area would be curbed.
- (h) A design exception or waiver was required since Section 151.2(a) of the Ordinance requires that access driveways to parking lots have a minimum width of 24 feet for two-way traffic and the access driveway provided at Poplar Drive has a width of 20 feet. This was an existing condition.
- (i) A bulk variance was sought from Section 133.7 of the Ordinance, which Section requires that retention basins not be located within the setback area of a lot. This was an existing condition.

7. Pursuant to Section 133.3 of the Ordinance, every primary building shall be built upon a lot with frontage upon a public street improved to meet the Township's standards. The construction storage yard was to be accessed via Walnut Avenue, which was not improved to Township's standards. The applicant sought a variance from Section 133.3 of the Ordinance and from N.J.S.A. 40:55D-35 in accordance with the standards of N.J.S.A. 40:55D-36.

8. A portion of the property is located within an area of special flood hazard, and, as such, a Development Permit was required from the Board of Adjustment pursuant to the provisions of Section 143.7(c) of the Township Flood Damage Prevention Ordinance.

9. Terence Golden and three (3) experts testified in support of the application. Mr. Golden noted that he had owned the property for over 30 years and that he had utilized the site for his construction company as a storage yard for about 25 years. He stated that approximately seven (7) employees arrive at the property at 6 to 6:30 am and are dispatched to job sites. Three (3) to four (4) office personnel arrive at the property later in the morning, with business hours being between 8am and 4pm. Mr. Golden stated that the proposed new building would enable his company to maintain its vehicles in the building and some items now stored outside would be able to be stored in the building. He agreed to remove a temporary storage trailer which had been on the site. Testifying with respect to the revised plans for the property, Mr. Golden stated that he wished to have the door of the building face Walnut Avenue. In response to questions from the Board and its consultants, the applicant agreed to place the exterior lighting of the yard on timers so that illumination does not continue all night. In addressing the stormwater management plan for the property, the witness noted that the detention basin which had been installed following his 2001 approval was working properly. Mr. Golden said that it was his intention to continue to provide a parking area for the Little League even though his agreement with that organization has expired. He said the Little League could utilize the parking until such time as he may sell the property in the future. The Little League and the Planning Board would be notified of any such change in the applicant's understanding and that, if necessary, he would return to the Board before discontinuing his commitment to provide parking for the Little League. The applicant said that it was his intention to install a wood-carved sign identifying his construction business in conformity with the Township Land Use Ordinance.

10. Robert Gazzale, an engineer with Fisk Associates, P.A., testified as the applicant's engineering expert. Mr. Gazzale reviewed the proposed site improvements and agreed to add additional buffering as requested by the Board's consultants. He stated that the detention basin on the property had been sized so as to provide for storage of runoff from the excess coverage of the site by impervious surfaces. He noted that the variance requested for parking within the front yard was necessary due to the fact that the property fronts on three (3) streets. The engineer agreed to have the pavement of the parking lot extend until the entrance to the building. In general, he was amenable to complying with all of the recommendations made by the Township's Engineering and Planning Consultants.

11. James Ramentol, the applicant's architect, reviewed the proposed floor plans and elevations for the newly proposed building. The building would have a brick veneer on three (3) of its sides. It would have a maximum height of 34.23 feet

12. Christina Nazzaro testified as the applicant's professional planner. She noted that a use variance was required to expand the nonconforming usage of the property so as to allow for construction of the proposed 3,000 square foot building. The planner stated that the Board of Adjustment had already found in its previous Resolution that the site was particularly suited for this usage, and she opined that the applicant's development proposal would improve the aesthetics of the property and would provide for a more efficient operation. She stated that several purposes of the Municipal Land Use Law would be advanced by the proposal, including the provision of a desirable visual appearance of the property and the appropriate location for the usage. Ms. Nazzaro noted that there are a variety of commercial uses that are located within a short radius of the applicant's property. She felt that the L-shape of the property and the fact that it fronts on three (3) streets creates a hardship to the applicant. The planner described the proposal as one which serves as a good transitional use for the area.

13. No public comments were submitted in connection with the application.

14. The Board had received and considered reports on the application from the Township Planning Consultant, the Board's Engineering Consultant, the Township Traffic Safety Officer, the Chief of the Stirling Volunteer Fire Company and the Morris County Planning Board.

15. The Board was of the opinion that special reasons had been shown to justify the grant of the applicant's use variance. The proposed new building on this site would make for a more attractive commercial operation than exists at present. The applicant was to be commended for his commitment to provide parking for the Little League. In its Resolution adopted in 2001, the Board found that the Little League parking would be a benefit to the community and would be a low impact usage for the property. With regard to the requested bulk variances, exceptions or waivers, the Board concluded that the applicant had sustained his burden of showing that the strict application of the zoning regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of the subject property. The L-shape of the property and the fact that it fronts on three (3) streets necessitated the grant of most of the requested relief. In any case, the variances were, for the most part, for existing conditions on the property.

16. The Board also found that the applicant had demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. The Board had previously found the usage to be one which would not substantially impact the neighborhood and would serve as an excellent transition between the existing land uses in the area.

17. The Board also concluded that the applicant had met his burden of proof with respect to the criteria for a variance from Section 133.3 of the Ordinance and from N.J.S.A.40:55D-35. The Board was satisfied that there would be adequate access for vehicles, including emergency vehicles, to the site providing that the applicant continued to maintain the paving for Walnut Avenue as previously required by the Board in its 2001 Resolution.

18. Finally, with respect to the requested Development Permit, the Board concluded that good and sufficient cause existed for granting a Permit. The applicant had sustained his burden of proving that his proposal could, in all reasonable likelihood, be implemented without causing an increase in flood heights or additional threats to the public safety.

The Board took action on this application at its meeting on October 1, 2013, as follows:

The Zoning Board of Adjustment of the Township of Long Hill, on October 1, 2013, that the application of Terence Golden for use and bulk variances, preliminary and final site plan approval, design standard exceptions or waivers, a variance to build upon a lot fronting on a street not improved to Township standards, as well as for a Development Permit under the Township Flood Damage Prevention Ordinance, all as aforesaid, be granted subject to the following conditions:

1. Applicant shall submit proof of payment of real estate taxes through the fourth quarter of 2013.

2. Applicant shall obtain approval or waiver from the Morris County Soil Conservation District.

3. The plans shall be revised in the following respects, or calculations or data shall be supplied, all of which shall be satisfactory to the Board Engineer (and/or, where noted below, to the Township Planning Consultant):

- (a) Coordinate the architectural and engineering plans with respect to floor areas and amend the parking calculations accordingly, and coordinate the architectural and engineering plans with respect to building height. This shall be done to the satisfaction of the Board.
- (b) Revise Sheet A-1 of the architectural plans to show the rear facade as having a stucco finish. This shall be done to the satisfaction of the Township Planning Consultant.
- (c) Slide parking area five (5) feet to the south so as to provide for curbed islands across the frontage, same to be satisfactory to the Board Engineer.
- (d) Maintain a three (3) foot walkway in front of the building, same to be satisfactory to the Board Engineer.
- (e) Curb the parking lot including channelization islands at Walnut Avenue, same to be satisfactory to the Board Engineer.
- (f) Stripe and cross-hatch the open space between the building and the parking lot, same to be satisfactory to the Board Engineer.
- (g) Move the proposed inlet along the Walnut Avenue frontage to the northwest corner of the parking lot, same to be satisfactory to the Board Engineer.
- (h) Raise the detention basin berm so as to allow for 12 inches of freeboard over the 100-year design storm elevation. The berm addition shall be blended into the surrounding grades so as to look as natural as possible. This shall be done to the satisfaction of the Board Engineer.
- (i) Note that the applicant shall continue to maintain the pavement of Walnut Avenue for a distance of twenty (20) feet from Poplar Drive.
- (j) Provide for either landscaping of the parking lot island or the placement of decorative gravel in the parking lot island, same to be satisfactory to the Township Planning Consultant.
- (k) Place a full cutoff light fixture on Walnut Avenue, same to be satisfactory to the Township Planning Consultant.
- (l) Time the yard lights to switch off no later than 6:30pm on regular business days, same to be satisfactory to the Township Planning Consultant.
- (m) Time the yard lights to switch off no later than 1:00am during extraordinary Township events at the Little League Field, same to be done to the satisfaction of the Township Planning Consultant.
- (n) Note on the plans that a Knox Box would be placed on the building at a location satisfactory to the Fire Department or, if no preference was made by the Fire Department, then at a location satisfactory to the Township Planning Consultant.

4. Applicant shall post performance bonds and inspection fees with the Township as determined by the Township Engineer and with the form of the guarantees to be acceptable to the Township Attorney. Same shall be posted prior to any further construction at, or disturbance of, the property.

5. Applicant shall post funds with the Township to satisfy any deficiency in the developer's escrow account.

6. Except as specifically modified by the present Resolution, all conditions in the Board of Adjustment's Resolution adopted on May 1, 2001 for Application No. 00-6Z shall remain in full force and effect.

Except as otherwise specifically set forth above, all conditions shall be satisfied prior to signing of the plans by the Board Officers and prior to issuance of any building permit or other municipal permits.

Mr. Gerecht motioned to approve the application. Mr. Aroneo seconded that motion. There was a ROLL CALL VOTE. Those in favor: Mr. Aroneo, Mr. Gerecht, Mr. Ruiz, Mr. Pesce, Mr. Keegan, and Chairman Behr. Those opposed: None. Mrs. Raimer has previously recused herself.

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**PUBLIC HEARING**  
**ZHONG MOU CHEN &**  
**YU W. OUYANG**  
Torbert Road  
Block 13508, Lot 12

**#12-05Z**  
Use (D-6) Variance  
Unimproved Road Variance

Chairman Behr called the meeting back to order at 10:10 P.M.

Mrs. Raimer joined the meeting at this time.

August N. Santore, jr., attorney for the applicants, Zhong Mou Chen and Yuwei W. Ouyang, introduced Andrew K. Wu, P.E., P.L.S., a licensed engineer with **Formosa Engineering Inc.**

Mr. Wu's credentials were accepted by the Board.

Mr. Santore stated that the applicants were applying to construct a single family home. He explained that they were appearing before this Board for two reasons: (1) the lot was located on an unimproved roadway and (2) based upon the topographic nature of the property, the design of the structure included a garage under and a walk-out basement which would constitute a three story structure and therefore be in violation of the township's ordinance prohibiting such a structure. He noted that the house would be under the 35'-0" height restriction aspect of the ordinance.

Mr. Wu addressed the engineering issues cited by Mr. Lemanowicz in his letter of July 23, 2013. He agreed to make the necessary changes. There was an objection by the applicant to reducing the driveway from the proposed 15 feet to 10 feet to reduce impervious coverage.

There was discussion as to what would need to be done to eliminate the garage under and walk-out basement. Mr. Wu stated that there would have to be a detached garage with large retaining walls around the property that would have to be filled to grade. The natural conditions of the property created the scenario of the walk-out basement and that design created the most minimal disturbance.

Mr. Wu gave testimony on the issue of stormwater as well as the sewer connection.

There were no further questions from the Board or the professionals for this witness on the preceding testimony.

Chairman Behr then opened the meeting to questions from the public. Seeing as there were none, he closed the meeting to the public.

Mr. Wu then discussed a landscaping plan that he had prepared and testified as to the number of trees that would have to be removed.

Chairman Behr recommended that Mr. Wu seek the advice of the Shade Tree Commission.

Chairman Behr verified that Mr. Wu's testimony was completed.

Mr. Hoffman recommended that Mr. Wu be available for future meetings.

Chairman Behr stated that Application #12-05Z would be carried to November 5, 2013 with no further notice. Motion was made and seconded to adjourn. VOICE VOTE was taken and the motion passed unanimously. The meeting was adjourned 11:05 P.M.

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Cynthia Kiefer  
Planning & Zoning Secretary