

MINUTES

MAY 20, 2014

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Dr. Behr, called the meeting to order at 8:04 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 is made that as a matter of procedure, it is 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 is passed by the members then present to extend the meeting to a later 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
Edwin F. Gerecht, Jr., Member
Michael Pesce, Member
Richard Keegan, Member
Michael O'Mullan, 1st Alternate

Sandi Raimer, Vice Chairman
Jerry Aroneo, Member
Felix Ruiz, Member
Michael Pudlak, 2nd Alternate

Thomas Lemanowicz, Bd. Engineer
Dan Bernstein, Bd. Attorney
Kevin O'Brien, Twp. Planner
Cyndi Kiefer, Planning & Zoning Secretary

Barry Hoffman, Bd. Attorney

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EXECUTIVE SESSION

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

RESOLUTION OF MEMORIALIZATION

JENNIFER FILO/ESTEBAN SANTIAGO

413 Elm Street
Block 13005, Lot 7

#13-05Z
Bulk Variances
Relief from Sec. 142.1 (d&e)
Relief from Sec. 124.1 (a)1

Mr. Gerecht asked if there were any changes, alterations, or comments from the board members. Seeing none, he entertained a motion to approve the resolution. Mr. Gerecht, Mr. O'Mullan, and Chairman Behr were eligible to vote. Chairman Behr moved approval and Mr. O'Mullan seconded.

Role Call Vote:

Those in Favor: Mr. Gerecht, Mr. O'Mullan, and Chairman Behr.

Those Opposed: NONE

Resolution of Memorialization was approved.

RESOLUTION OF MEMORIALIZATION

PHIL FEINBERG

7 Skyview Terrace
Block 13201, Lot 8

#13-06Z

Bulk Variances
Relief from Secs. 142.1a,
142.1d & 146.6q

Mr. Gerecht asked if there were any changes, alterations, or comments from the board members. Seeing none, he entertained a motion to approve the resolution. Mr. Gerecht, Mr. Keegan, Mr. Pesce, Mr. O’Mullan, and Chairman Behr were eligible to vote. Mr. Pesce moved approval and Mr. O’Mullan seconded.

Role Call Vote

Those in Favor: Mr. Gerecht, Mr. Keegan, Mr. Pesce, Mr. O’Mullan, Chairman Behr

Those Opposed: NONE

Resolution of Memorialization was approved.

PUBLIC HEARING

CHAD DEBOLT

190 Preston Drive
Block 13803, Lot 8

#14-03Z

Amendment of prior Condition of
Approval (#88-07Z) for Site

PROOF OF SERVICE PROVIDED

Present:

Chad DeBolt, Applicant
John Orenczak, Neighbor
Jane Hecht, Neighbor Opposing Application
Joanne Sarubbi, Esp., Attny. For Mrs. Hecht

Mr. Gerecht swore in the consultants, Mr. O’Brien and Mr. Lemanowicz.

Mr. Gerecht swore in Mr. DeBolt.

Chad DeBolt applied to the Zoning Board of Adjustment of the Township of Long Hill for a lot coverage variance and a modification of the terms and conditions in a memorialization resolution adopted July 13th, 1988 to the applicant’s predecessor in title Michael J. Loree in Application No. 88-7Z. That application was for permission to construct a tennis court and surrounding fence on the subject property which is located at 190 Preston Drive, Gillette, then designated as Block 194.02, Lot 8 (now designated as Block 13803, Lot 8) on the Long Hill Township Tax Map. The premises is located in the R-2 Zone.

The current application was presented by Chad DeBolt at the May 20th, 2014 Board of Adjustment meeting, and opposed by neighbor Jane Hecht who was represented at the public hearing by Attorney Joanne Sarubbi, Esq.

The application was reviewed by Township Planner Kevin O’Brien, P.P. of the firm Shamrock Enterprises, Ltd. and Zoning Board Engineer Thomas Lemanowicz, P.E. of the firm Remington, Vernick and Arango Engineers.

The Board, after considering the evidence presented by the applicants, the Board professionals, and interested neighbors, has made the following factual findings:

The subject property is an irregularly shaped lot containing 55,563 square feet. The Lot has 233.42 feet of frontage along Preston Drive.

The subject property is a “through lot” with frontage and access on Preston Drive and frontage but no access on Long Hill Road.

The subject property and the lots in the area slope from Long Hill Road to Preston Drive.

Located on the western side of the property is a 115 feet by 55 feet tennis court, 10-15 feet to adjoining Lot 7 (384 Long Hill Road) , which is owned by John Orenczak.

In 1988, Michael J. Loree applied to the Passaic Township (prior name for Long Hill Township) Zoning Board for permission to install an oversized fence around a proposed tennis court on the subject property. The fence would be 10 feet high while the maximum permitted height for a fence in the zone was 6 feet.

The application was approved and the Board adopted a memorialization resolution on June 28th, 1988.

Factual finding 5 in the memorialization resolution provided:

“A Thomas Murphy, the applicant’s engineer, testified and indicated that the tennis court will be some 115’ long by 55’ wide. It will have a ‘fast-dry surface’ consisting of granular and crushed stone material. The court is proposed to be lighted with ‘quick-cutoff’ type of fixtures. There are some existing evergreens on the adjacent property to the west. The applicant offered to plant more evergreens along the westerly line of the property. Several trees will also be planted along the northwesterly corner of the court, according to Mr. Murphy. Drainage can be directed toward the applicant’s house rather than toward the westerly property line, according to the engineer.”

The condition in the memorialization resolution provided:

“The plan shall be revised in the following respects, all of which shall be satisfactory to the Township Engineer and the Township Planning Consultant:

- (a) Note that the lights for the tennis court shall be turned off no later than. 10 P.M.
- (b) Drainage shall be directed toward the applicant’s dwelling and toward Preston Drive.
- (c) The fencing shall be ten (10) feet in height on the northerly, westerly and southerly sides of the court and no more than ten (10) feet in height on the easterly side of the court.
- (d) White Pines 8 feet in height and installed 10 feet on center shall be planted along the entire westerly side of the tennis court and along the northwesterly corner of the court.
- (e) Light intensity curves and details shall be shown in accordance with Paragraph No. 3 of the June 21, 1988 report of the Township Engineer.”

Chad DeBolt was unaware of the prior resolution when he and his wife purchased the property. The tennis court was in a poor condition and was not usable.

Chad DeBolt had the tennis court resurfaced with macadam. He was told by the contractors whom he spoke with that no permits were required. As noted therein, factual finding 5 in the 1988 resolution noted that the tennis court would have a “fast-dry surface.” That term was not defined in the resolution.

Chad DeBolt cut down the White Pine trees which were required in the 1988 memorialization resolution. Zoning Board Engineer Thomas Lemanowicz noted that White Pine trees were often used as a buffer in the past as they are a fast growing species. However, they are messy and as they grow the lower branches drop off, minimizing their buffering quality. Mr. Lemanowicz approved of Mr. DeBolt’s proposal to plant Western Red Cedar trees in lieu of the White Pines.

Mr. Gerecht opened the meeting for questions from the public.

Jane Hecht, 202 Preston Drive, complained to municipal officials after the tennis court was resurfaced.

Joanne Sarubbi introduced herself as the attorney representing Robert and Jane Hecht. Mr. Gerecht then swore in Mrs. Hecht.

Ms. Sarubbi questioned the fact that the approval of the initial application of Mr. Loree (#88-07Z) was never perfected and that there were no signed plans even though the court was built. Her concern centered on whether or not the conditions of the approval had been met.

During testimony, two (2) letters were produced by Ms. Sarubbi pertaining to this issue.

The first, marked **Exhibit BOA-2**, was dated July 19, 1988 and written by D. Gregg Williamson, Township Engineer, to Dawn Kuhns, Zoning Board Secretary. It stated that, “...all the conditions have been satisfied except Condition 1(e) – Lights.”

The second letter, marked **Exhibit BOA-3**, was dated September 14, 1988 and written by D. Gregg Williamson, Township Engineer, to Aidan T. Murphy, the engineer for the applicant and affiliated with Murphy & Hollows Associates, Inc. It stated that, "We have received the information you forwarded to us under date of August 30, 1988 relative to the lighting patterns. We find it acceptable since the layout shows a cutoff behind the lights."

Based on those two (2) letters, Mr. Lemanowicz felt that all the conditions of the approval had been satisfied despite the fact that there were no signed plans.

Ms. Sarubbi noted that there were drainage issues possibly because of the change in the surface or the pitch of the court itself.

Township Engineer Paul Ferriero required the DeBolt's to have their engineer submit a drainage plan for the tennis court. The drainage plan consisted of a swale and berm which directed water into a trench where water infiltrated into the ground.

Mrs. Hecht questioned why the drainage was not directed towards the applicant's house as was stipulated in the resolution. She also questioned why the applicant was allowed to substitute swales and a berm for the piping system that was originally specified in the 1988 resolution.

Mr. Lemanowicz reviewed the drainage plan and found that it would be superior to the tennis court with the "fast dry" surface and the drainage plan which had been approved in 1988.

Based on the testimony of neighbor John Orenczak, who lives a 384 Long Hill Road adjoining the tennis court, the Hecht property has a lower elevation than five (5) adjoining properties. The natural drainage flow is from the higher to the lower elevation. The 1988 plan which was submitted to the Zoning Board as **Exhibit BOA-1** shows existing elevations on the subject property to be higher than those on the adjoining Hecht property. The Board finds that the drainage problems on the Hecht property are mainly caused by the natural flow of water.

Long Hill Township Zoning Officer Thomas Delia in a letter to the applicant dated November 4th, 2013 denied the request for a change in the pavement of the tennis court and the trees that were used for buffering.

There is presently 21.9% lot coverage while the Zoning Ordinance limits lot coverage in the R-2 Zone to 20%.

The Board finds that this is an existing condition which was probably caused by the construction of the tennis court in 1988.

The Board finds that this slight excessive lot coverage is more than mitigated by the existing drainage plan.

After deliberations, Mr. Pesce moved and Mr. O'Mullan seconded the motion to approve the application of Chad DeBolt for modifications of the memorialization resolution dated July 13th, 1988 for Michael J. Loree in Application No. 88-7Z in the following respects:

1. As to factual finding 5, the tennis court may have a paved macadam surface rather than the "fast dry" surface in the original resolution.
2. The drainage plan which is shown on a plan prepared by Murphy and Hollows dated August 8th, 2013 and titled "DRYWELL PLAN FOR LOT 8 BLOCK 13803 190 PRESTON DRIVE TOWNSHIP OF LONG HILL MORRIS COUNTY NEW JERSEY" be substituted for the drainage plan that was approved in 1988. A landscape plan with staggered rows of Western Red Cedar, or another appropriate species, as shown on the aforesaid plan, is approved. The trees are to be planted and permanently maintained to the approval of the Zoning Board Engineer.
3. Show complete berm on an as-built plan to the satisfaction of the Zoning Board Engineer.
4. Maintain the outlet and surrounding area as discussed by the Zoning Board Engineer.
5. Maintain the swale and keep it clear from debris.

6. Install ground cover on the berm to the satisfaction of the Board Planner.
7. Stagger the tree plantings in an alternating row to the satisfaction of the Board Planner.
8. Note that the lighting component of the original Resolution has been withdrawn.

ROLL CALL VOTE:

Those in Favor: Mr. Gerecht, Mr. Keegan, Mr. Pesce, Mr. O'Mullan, Chairman Behr.

Those Opposed: NONE

Motion for approval passed unanimously.

Meeting was adjourned at 11:31 P.M.

CYNTHIA KIEFER
Planning and Zoning Secretary

Date