

**MINUTES**

**AUGUST 20, 2013**

**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:

Sandi Raimer, Vice Chairman  
Jerry Aroneo, Member  
Felix Ruiz, Member  
Michael Pesce, 1st Alternate  
Richard Keegan, 2<sup>nd</sup> Alternate

E. Thomas Behr, Chairman  
Edwin F. Gerecht, Jr., Member  
John Fagnoli, Member  
Maureen Malloy, Member

Barry Hoffman, Bd. Attorney  
Thomas Lemanowicz, Bd. Engr.  
Kevin O'Brien, Twp. Planner  
Dawn Wolfe, Planning & Zoning  
Administrator

Mrs. Raimer noted for the record that the Consultants had been excused from this meeting.

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**EXECUTIVE SESSION**

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

**MEMORIALIZATION OF RESOLUTION**

**ZEN KEY HOLDINGS, LLC**

12 Elliot Road  
Block 12702, Lot 25

#13-04Z  
Bulk Variances

Mrs. Raimer stated that the sole purpose of this meeting was to memorialize the resolution of Zen Key Holdings, LLC. She also noted that the Board Engineer, Thomas Lemanowicz, had advised the Board that all outstanding conditions subject to his review had been satisfied.

Seeing that there was only one (1) member present who was eligible to vote on the Memorialization, Mrs. Raimer had conferred with both the Township and Board Attorneys. She had been advised that since there was a quorum, the vote was eligible to proceed.

The Resolution was stated as follows:

WHEREAS, ZEN KEY HOLDINGS, LLC has applied to the Zoning Board of Adjustment of the Township of Long Hill for permission to demolish an existing single-family dwelling on a lot and construct a new single-family residence thereon, requiring bulk variances for insufficient lot area, insufficient front yard setback and insufficient rear yard setback, with respect to property known as Block 12702, Lot 25 on the Township Tax Map, located at 12 Elliott Road, which premises are in an R-2 Zone; and

WHEREAS, the Board has held a public hearing on the application on June 4, 2013, at which time interested citizens were afforded the opportunity to be heard; and

WHEREAS, the Board after carefully considering the evidence presented by the applicant, the adjoining property owners and other interested parties, has made the following factual findings and conclusions:

1. The subject property, which is owned by the applicant, is a 26,080 square foot lot located in the R-2 Residential Zone of the Township. The lot is nonconforming in size for the R-2 Zone and, while it is essentially rectangular in shape, the lot's longer dimension is along its width or street frontage (for some 250 feet) and its shorter dimension is for its depth (ranging between approximately 102 feet and 107 feet). The property is presently improved with a dwelling which is located in the extreme rear of the lot, such residence being offset only some eight (8) feet from the rear line of the property (rather than at least 50 feet, as required in the R-2 Zone). Elliot Road is a short cul-de-sac street which contains lots of varying sizes, with larger lots being at the end of the cul-de-sac and across the street from the subject parcel in a lot that wraps around the corner of Bungalow Terrace. Other lots along Elliot Road are smaller in size.

2. The applicant proposes to demolish the existing dwelling on the lot and construct a new single-family residence thereon.

3. The applicant's development proposal for the property is more particularly depicted on the following plans:

(a) A Variance Plan prepared by Murphy & Hollows, LLC, C.E. & L.S., dated March 7, 2013 and revised to April 25, 2013, same consisting of four (4) sheets.

(b) Floor plans and elevations prepared by Roger C. Winkle, Architect, dated February 22, 2013, with sheets A-1 through A-3 revised to April 16, 2013, and sheet A-4 revised to April 25, 2013, same consisting of four (4) sheets.

(c) A Survey prepared by Murphy & Hollows, LLC, same being dated April 17, 2013 and consisting of a single sheet.

4. The application to the Board of Adjustment requires the following bulk variances from provisions in the Township Land Use Ordinance (the "Ordinance"), as follows:

(a) Front Yard Setback - Pursuant to Section 131, the Schedule of Bulk Requirements in the Ordinance, and the minimum required front yard setback in the R-2 Zone is 75 feet. The existing dwelling on the property is set back 70 feet from the street and the proposed new residence will be set back 40 feet from the street.

(b) Rear Yard Setback - Pursuant to the aforementioned Schedule of Bulk Requirements, the minimum required rear yard setback in the Zone is 50 feet. The existing dwelling on the property is offset 8 feet from the rear line of the property and the proposed new dwelling will be setback 29.4 feet from the rear line of the property.

(c) Lot Area - Pursuant to the aforementioned Schedule of Bulk Requirements, the minimum required lot area in the Zone is 45,000 square feet, whereas the subject lot contains 26,080 square feet.

5. The required variance relief comes within the criteria of N.J.S.A. 40:55D-70(c).

6. Similar variance relief to that sought by the applicant was granted to Brian and Melissa Martin, pursuant to a Resolution adopted on April 21, 2009 (Application No. 08-16Z). However, the conditions of approval of such Resolution were never satisfied and the variances subsequently expired.

7. Joseph Rivette, a principal of the applicant, testified in support of the development proposal. Mr. Rivette said that the proposed new dwelling on the lot will be a two-story colonial style residence. The witness indicated that the proposed new dwelling would be centered on the lot. Mr. Rivette stated that the new residence will be in keeping with other homes in the neighborhood, but it will be more modest in size than the two (2) houses at the end of the Elliot Road cul-de-sac. The applicant's proposed new dwelling will contain some 3,366 square feet in living area, while the two (2) houses at the end of the street contain between 4,000 and 5,500 square feet.

8. A. Thomas Murphy, the applicant's engineer and planner, testified on its behalf. He reviewed the features of the property and the applicant's development proposal. Mr. Murphy emphasized that the subject lot is substandard in area. He noted that the adjacent lots are all developed and that there is no available land which could be appended to the property in question. The engineer pointed out that the removal of the existing residence on the site and the relocation of the dwelling as shown on the proposed Variance Plan will result in the elimination of a sideyard deficiency at the property. Mr. Murphy also commented that, while the front yard setback on the lot will be decreasing (i.e. from the existing 70 feet to 40 feet), the new front yard offset on the property will match that which prevails in the neighborhood. The rear yard setback of the property will be increased from the present 8.0 feet to 29.4 feet.

9. The neighboring property owners to the rear of the subject lot expressed concern about the location of the proposed new driveway for the dwelling, maintaining that additional buffering would be needed to prevent the light from automobile headlights from impacting them.

10. The Board has received and considered reports from the Township Planning Consultant, the Board's Engineering Consultant, the Township Environmental Commission, the Township Traffic Safety Officer and the Morris County Planning Board. The applicant was agreeable, in general, to revising its plans to address the comments of the Board's Consultants.

11. After reviewing the evidence submitted, the Board concludes that the applicant has sustained its burden of showing that the strict application of the zoning regulations will result in peculiar and exceptional practical difficulties to, or exception and undue hardship upon, the developer of the subject property. Additionally, the Board finds that the purposes of the Municipal Land Use Law will be advanced by the requested deviations from the zoning requirements and that the benefits to be derived therefore will substantially outweigh any detriments associated therewith. The proposed new dwelling will enhance the general welfare and the Board is satisfied that it will be constructed at an appropriate location on the property. The small size and the shallow depth of the subject lot, as well as its orientation, present an undue hardship to the applicant.

12. The Board also finds that the applicant has 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 believes that the applicant's proposal for redevelopment of the property is a desirable plan which will bring the dwelling on the subject lot more into conformity with existing development in the neighborhood.

WHEREAS, the Board took action on this application at its meeting on June 4, 2013, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g):

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Long Hill, on this 20<sup>th</sup> day of August, 2013, that the bulk variance application of Zen-Key Holdings, LLC be granted subject to the following conditions:

1. Applicant shall submit proof of payment of real estate taxes through the third 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 documents, calculations and data shall be supplied, all of which shall be satisfactory to the Planning Board Engineer (and, where noted below, to the Township Planning Consultant, as well):

- (a) Show the location of the shed on the adjoining property to the north.
- (b) Add a note indicating that if a septic field is found during excavations, the Board of Health will be notified.
- (c) The roadway drainage ditch shall function to the satisfaction of the Board Engineer (Item No. 5 in the May 6, 2013 report of the Board Engineer)
- (d) The sanitary sewer lateral shall be satisfactory to the Township Engineer at the time of construction. Should the lateral be found to be unsatisfactory, a new sanitary lateral shall be installed (Item No. 6 in the May 6, 2013 report of the Board Engineer).
- (e) Add a note indicating that the existing driveway will be tilled to a depth of one foot to restore permeability (Item No. 7 in the May 6, 2013 report of the Board Engineer).
- (f) The limit of disturbance shall be revised on the plans to include those areas that may be disturbed in the restoration of currently uneven lawn areas (Item No. 8 in the May 6, 2013 report of the Board Engineer).
- (g) Revise the plans to provide a uniform revision date.
- (h) Provide for planting of a dogwood tree in front of the proposed new dwelling and for other trees in the area of the existing dwelling to be demolished, said plantings to be satisfactory to the Township Planning Consultant.
- (i) Note that no more than 60 watt bulbs shall be placed in the outdoor lights.
- (j) Note that the outdoor lights will have obscured/frosted glass, same to be satisfactory to the Township Planning Consultant.
- (k) Modify the grading to the rear of the property to the satisfaction of the Board Engineer to provide enhanced surface drainage.
- (l) Provide for planting of a four (4) foot high stockade fence on the applicant's side of the entire length of the rear property line.
- (m) Note that the transom windows on the right side and rear elevations of the proposed dwelling may be replaced by the same sized double-hung windows, same to be satisfactory to the Township Planning Consultant.
- (n) Note that the applicant will maintain the property, including weekly cutting of grass and removal of leaves as may be appropriate, until the new home is occupied.
- (o) A row of deer-resistant plantings shall be placed at the western end of the driveway to act as a buffer to the neighboring properties, same to be satisfactory to the Township Planning Consultant (which Official may seek advice of the Township Shade Tree Commission).

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

Except as otherwise 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.

Being the sole member present eligible to vote, Mr. Pesce moved the adoption of the resolution and seconded that motion. A Roll Call Vote was taken. Those in Favor: Mr. Pesce. Those Opposed: None. Abstained: Mr. Aroneo, Mr. Keegan, Mr. Ruiz, Mrs. Raimer.

Mr. Aroneo moved to adjourn. Mr. Pesce seconded. Meeting was adjourned at 8:04 P.M.

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CYNTHIA KIEFER  
Planning and Zoning Board Secretary